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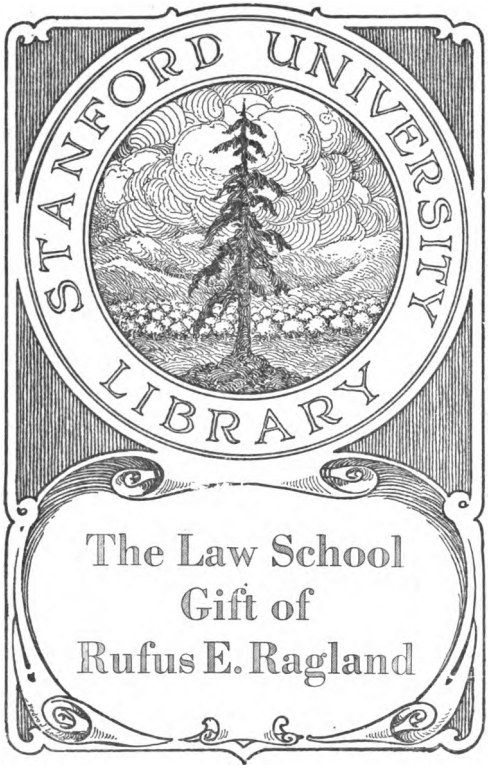
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TREASURY DECISIONS

UNDER INTERNAL REVENUE LAWS
OF THE UNITED STATES

VOL. 16

JANUARY-DECEMBER, 1914

W. G. McADOO
Secretary of the Treasury

WASHINGTON
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INTRODUCTION.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 31, 1914.

To officers of internal revenue and others:

The within decisions of the Commissioner of Internal Revenue, rendered during the calendar year 1914, upon the construction to be given to the various acts of Congress relating to the internal revenue, are published for the information and guidance of officers of the internal revenue and others concerned.

This volume contains Treasury Decisions numbered 1927 to 2112, inclusive, and embraces all regulations and rulings of the Treasury Department up to December 31, 1914, on the subject of the emergency revenue tax imposed by the act of October 22, 1914, and all regulations and rulings made during the calendar year 1914 on the subject of the income tax imposed by the act of October 3, 1913.

W. H. OSBORN,
Commissioner of Internal Revenue.

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INTERNAL REVENUE.

(T. D. 1927.)

Income tax.

Extension of time for filing monthly list returns by the first bank or collection agency receiving coupons or interest orders for collection, when not accompanied by a certificate of ownership, and monthly list return required to be filed by licensed bank or collection agency collecting income from bonds, etc., issued in a foreign country, in accordance with the requirements of section 2, act of October 3, 1913 (T. D. 1887).

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 2, 1914.

The time for filing the (*a*) monthly list return required of the first bank or collection agency accepting coupons or interest orders for collection, when not accompanied by a certificate of ownership, and the (*b*) monthly list return required of licensed banks or collection agencies collecting incomes from bonds, etc., issued in a foreign country, as provided in T. D. 1887 (pp. 5 and 6), which are required to be filed on the 20th day of the month next succeeding that in which said items were received, *is hereby extended to January 20, 1914.*

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury

(T. D. 1928.)

Income tax.

Regulation prescribing additional forms on which to make returns of annual net income for the income tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 2, 1914.

The forms numbered and described below, in addition to those previously approved, are prescribed by this department for the purposes indicated in connection with the administration of the Federal income-tax law (sec. 2 of the act of Oct. 3, 1913):

Forms 1030, 1031, 1032, 1033, 1034, and 1035 are to be used by corporations in making their returns of annual net income, as follows:

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No. 1030 by insurance companies; No. 1031 by banks and other financial institutions (class A); No. 1032 by public service corporations (class B); No. 1033 by manufacturing corporations (class C); No. 1034 by mercantile corporations (class D); No. 1035 by miscellaneous corporations (class E).

Form 1040 is to be used by individuals, or their duly authorized agents, in making the personal return of annual net income.

Form 1041 is to be used by fiduciaries in making returns of annual net income in behalf of their beneficiaries and as withholding agents.

Form 1042 is the annual list return of withholding agents of taxes withheld by them on income other than that derived from corporate obligations.

Form 1043 is a monthly list return of taxes withheld on foreign income by licensed banks or collecting agents.

Form 1043*a* is the annual list return to be made by licensed banks and collecting agents of taxes withheld by them during the year on foreign items.

Form 1044 is a monthly list return of taxes withheld by the first bank or collecting agency receiving coupons or interest orders not accompanied by certificates of owners.

Form 1044*a* is the annual list return of taxes withheld during the year by the first bank or collecting agency receiving coupons or interest orders not accompanied by certificates of owners.

Form 23*a* will be used by collectors in listing, for assessment, the corporations showing net income upon which the tax is to be computed, this form to be prepared in duplicate.

Form 23*b* will be used by collectors in listing, for assessment, withholding agents, fiduciaries, etc., and individuals who return a taxable income.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved.
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1929.)

Income tax.

Supplemental regulations prescribing form of certificate to be attached to interest coupons in cases where the collecting agent's certificate is substituted for the certificate of the owners, when said owners are fiduciaries not claiming exemption at source.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 3, 1914.

Subject to the provisions of the regulations in T. D. 1903, dated November 28, 1913, collecting agents may substitute Form 1019*a*,

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properly filled in and numbered, for the certificate of the owner on Form 1019.

When collecting agents substitute their own certificate in lieu of owner's certificate on Form 1019, said substitute certificate shall be in substantially the following form:

(Form 1019a.)

Form of certificate to be attached to interest coupons in cases where the collecting agent's certificate is substituted for the certificate of the owners.

(When owners are fiduciaries.)

(The owner's certificate, of which the following certificate is the counterpart, and bears the same number as this certificate, will be sent by the collecting agent direct to the Commissioner of Internal Revenue at Washington, as prescribed by regulations.)

No. ....

I (we) ....., do solemnly declare that the owner of
(Name of collecting agent.)

$ ..... bonds of the ....., from which were
(Name of debtor organization.)

detached the accompanying interest coupons due ....., 191..,
(Maturity.)

amounting to $ ....., has filed with me (us) a duly executed certificate filled up in accordance with Treasury Regulations of December 8, 1913, *Form No. 1019*; which certificate has been indorsed by me (us) as follows: "Owner's certificate No. ....., ..., ..., 191.." that said certificate
(Name of collecting agency.) (Date.)

is executed by a fiduciary, and that the fiduciary, acting for and in the capacity as stated therein, did not claim any exemption from having the normal tax of 1 per cent withheld from said income by the debtor at the source; and I (we) do hereby promise and pledge myself (ourselves) to forward the above-described certificate executed by the owners as stated and dated ....., 191.., to the Commissioner of Internal Revenue, at Washington, D. C., not later than the 20th day of next month, in accordance with Treasury Regulations.

Signature of collecting agent: .....

Date: ....., 191... Address: .....

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved.
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1930.)

Cigar manufacturers' book, Form 73, revised.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 6, 1914.

To collectors of internal revenue:

Form 73 of book to be kept by manufacturers of cigars and cigarettes has been revised, providing new columns in which to report tax-free cigars used for personal consumption and for experimental

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purposes, employees, etc., as prescribed in Regulations (T. D. 1875) under authority of the act of February 10, 1913. Copies of revised Form 73 have been furnished upon request to publishers of these books and copies have also been sent to each collector of internal revenue.

Cigar manufacturers need not be required to purchase new books 73 until their present books have been filled, if they are keeping, in addition to the other requirements of the law, proper record therein in accordance with T. D. 1875, and no trouble is experienced by collectors or their deputies from manufacturers making abstracts therefrom on latest revised Form 72 of cigar manufacturers' monthly return. Otherwise the use of revised book 73 shall be required immediately.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 1931.)

Shipment in bond of tobacco, cigars, cigarettes, and playing cards by registered mail.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 6, 1914.

To collectors of internal revenue and others concerned:

Under T. D. 1858, dated June 10, 1913, relating to the exportation by parcel post of tobacco, snuff, cigarettes, or playing cards, the affixing of export stamps and the inspection of such articles by the deputy collector of internal revenue are not required where the tax involved does not exceed the sum of $10.

These provisions are hereby extended so as to authorize the exportation of such articles, including cigars, by registered mail where the tax involved does not exceed the sum of $10.

The receipt, properly signed, to be given at the post office of mailing should contain such description of the goods as will identify them as the particular goods withdrawn for exportation, including the name of shipper, kind of goods, number of packages, quantity, foreign destination, and name of consignee.

Such particulars should appear on the packages delivered at the post office for registration.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
JNO. SKELTON WILLIAMS,
Acting Secretary of the Treasury.

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(T. D. 1932.)

Instructions relative to assignment to duty of income-tax appointees.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 13, 1914.

Internal-revenue agents, inspectors, and others concerned:

Revenue agents in charge of revenue agents' divisions and income-tax revenue agents and inspectors are hereby instructed as follows:

1. Income-tax agents and inspectors appointed under the provisions of the act of October 3, 1913, and paid from the appropriation for collecting the income tax will be assigned to duty under the supervision of agents in charge of revenue agents' divisions.

2. Persons appointed either as income-tax agents or income-tax inspectors, when the appointment is sent from this office, will be instructed by letter to report to one of the division revenue agents for duty, and until otherwise ordered may report either in person or by letter, and if by letter await the instructions of the agent in charge of the division to which they are assigned.

3. Officers of this class are expected to perform the duties of their offices where their services are required, but for the present, and until they become somewhat familiar with the duties of their places, they will be assigned to the revenue agent in charge of the division embracing their legal residence.

4. Income-tax agents and inspectors will be expected to confine their operations to income-tax work so long as there is income-tax work to be performed, and division agents are admonished not to employ officers of this class for the general or ordinary work of the bureau except when their services are not required on income-tax work.

5. The duties of officers of this class are to ascertain and report the names of persons who in their opinion are liable to the income tax and who have failed to make return as required by law; to inquire into income-tax returns where there is any suspicion that the return made is erroneous; to examine the books and accounts of persons who have made returns, for the purpose of ascertaining and reporting as to whether the law has been complied with, when so ordered by the agent in charge of the division to which they are assigned; to inquire into the manner in which income-tax employees are discharging their official duties and to report those who have failed in this respect. For the purpose of securing such information as they may desire they may visit the office of any State, county, or municipal officer, and for the general purpose of their employment may confer with any collector or deputy collector of internal revenue within the territory in which they are authorized to operate.

6. The reports of these officers should be made to the agent in charge of the division to which they are assigned, who in turn will

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report to the Commissioner of Internal Revenue and the collector of the proper district.

7. In the discharge of their official duties officers of this class, as well as all officers of the Internal-Revenue Bureau, in making inquiries and investigations are expected to exercise sound discretion, treat all persons with due courtesy, and, while acting firmly and courageously, to avoid all contention or controversy that would give just ground for complaint.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 1933.)

Income tax.

Mutual telephone companies, mutual insurance companies, and like organizations whose status, under the law, is not dependent upon whether or not they are organized for profit, and not being specifically enumerated as exempt, must make returns of annual net income pursuant to the requirements of section 2, act of October 3, 1913.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 12, 1914.

SIR: This office is in receipt of your letter of the 31st ultimo, asking advice as to whether or not mutual telephone companies will be required to file returns of annual net income under the provisions of section 2, act of October 3, 1913.

In reply you are informed that under the provisions of the act above cited, every corporation, joint-stock company, and every insurance company, no matter how created or organized, is subject to the income tax and will be required to make returns of annual net income, except such as are specifically enumerated in the act as exempt from its provisions. In the list of those so enumerated as exempt do not appear mutual telephone companies or similar organizations.

Since under this act no exemption is provided, either express or implied, for mutual telephone and like companies, and liability is not dependent upon whether or not the corporation is organized for profit, it is held that all corporations not specifically enumerated as exempt will be required to make returns of annual net income and to pay any tax that may be assessed upon the net income returned.

This ruling will comprehend all telephone companies, local insurance companies, and like corporations whether or not they are organized primarily for the mutual benefit of their members.

Respectfully, ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

COLLECTOR OF INTERNAL REVENUE, *Omaha, Nebr.*

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(T. D. 1934.)

Income tax.

Individuals whose net income from March 1 to December 31, 1913, both dates inclusive, is $2,500 or more must make returns of annual net income for 1913.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 16, 1914.

Section 2, act of October 3, 1913, provides that on or before the *1st day of March, 1914*, and the 1st day of March in each year thereafter, a true and accurate return, under oath or affirmation, shall be made to the collector of internal revenue by each person of lawful age who may be subject to the tax imposed by this section who has a net income of $3,000 or over for the *taxable year*.

It is further provided that for the year ending December 31, 1913, the tax shall be computed on the net income accruing from March 1 to December 31, 1913, both dates inclusive, after deducting five-sixths only of the specific exemption and deductions allowable for an entire taxable year.

Since the return of annual net income for the year 1913, as applied to individuals, is for but *five-sixths* of the calendar year, and as the law provides that returns shall be made on the basis of *five-sixths* of the year, it is held that individuals whose net income is $2,500 or more for the 10 months constituting the taxable period of 1913 shall make returns of annual net income in accordance with the general provisions of the law covering the 1913 taxable period.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1935.)

Special tax.

Special tax as rectifier must be paid for the compounding of spurious or imitation liquors, *for sale*, with the use of alcohol and flavoring extracts, irrespective of quantity.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 17, 1914.

SIR: This office is in receipt of your letter of the 12th instant relative to the preparation by retail liquor dealers in your division of spurious or imitation liquors by the addition to alcohol, water, etc., of extracts, essences, etc., furnished by the ——— Co.

In reply you are advised that it appears probable that these essences and extracts are similar to those the subject of T. D. 1769,

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in which it was held that, for the compounding, for personal use only and not for sale, of imitation liquors by the addition of such extracts to alcohol, water, etc., no special-tax liability was incurred, but that special tax would be required for the preparation for sale of a liquor in accordance with the directions for use upon the bottles of extract.

The long-standing ruling that a retail liquor dealer may blend or compound spirits and mixed drinks in quantities of less than 5 gallons solely for his own convenience in serving his trade across the bar is not to be construed as authorizing or covering a preparation of spurious or imitation liquors by the addition of flavoring extracts or essences to alcohol.

This ruling will be published as a Treasury decision and the widest publicity given to it, and in future all saloon keepers found to be preparing spurious or imitation liquors in this manner shall be reported for special tax as rectifiers.

Respectfully, ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

INTERNAL-REVENUE AGENT, *Chicago, Ill.*

(T. D. 1936.)

Special excise tax on corporations—Decision of court.

1. TAXES DUE FROM STOCKHOLDERS.
The State tax on capital stock of banks under the Massachusetts statute falls directly on the stockholders, and these taxes can not be legally deducted from gross income in returns made by banks under the corporation tax act. The tax is not upon the banks, and in paying it they act as agents. T. D. 1763 sustained.

2. RETURNS.
The Commissioner of Internal Revenue, upon evidence produced before him, is authorized to amend incorrect returns, or make a return, as the case may be.

3. ASSESSMENTS.
The Commissioner of Internal Revenue is authorized to make additional assessments after the taxes have been assessed and paid on the original returns, even though the errors in the original returns were made without any intention to deceive or mislead.

4. THE THREE YEARS' LIMITATION.
The statute does not require the additional assessment to be made within the three years' period. The limitation is upon the discovery of the error by the Commissioner of Internal Revenue within three years.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 20, 1914.

The appended decision of the United States District Court for the District of Massachusetts in the case of The Eliot National Bank *v.* James D. Gill, collector of internal revenue, is published for the information of internal-revenue officers and others concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

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Eliot National Bank v. James D. Gill, collector.

[December 29, 1913.]

BINGHAM, *Judge:* This action was brought by the Eliot National Bank against James D. Gill, collector of internal revenue for the third district of Massachusetts, in the Superior Court for the County of Suffolk, and was afterwards transferred into this court by writ of certiorari.

The declaration contains three counts for money had and received. In the first count plaintiff seeks to recover $338.25, with interest from March 15, 1913; in the second and third counts for $369 and $377.20, respectively, with interest from April 28, 1913. The sums sought to be recovered represent certain taxes paid by the plaintiff for the years 1909, 1910, and 1911, under the provisions of the corporation-tax law of August 5, 1909 (36 Stat. L., c. 6, s. 38, pp. 112–117). The case is here upon an agreed statement of facts with authority in the court to draw such inferences from the facts agreed upon as may be warranted.

The plaintiff is a national bank, located and doing business in the city of Boston. On May 1, 1909, and on April 1, 1910 and 1911, the shares of the capital stock of the bank were assessed by the city of Boston, under the provisions of revised laws of Massachusetts (c. 14, ss. 9–18, inclusive) and under the provisions of Massachusetts (Statutes, 909 (c. 490, Part III; secs. 11 to 20). The tax assessed by the city upon the shares of the bank for 1909 was $33,825; for 1910, $36,900; and for 1911, $37,720.

Returns were made by the plaintiff to the collector of internal revenue for the three years in question for the assessment of the corporation tax, and taxes based upon such returns were levied and paid. On or before February 27, 1913, the Commissioner of Internal Revenue discovered that in making these returns the bank had deducted from its gross income the amount of taxes stated above and paid by it each year to the city of Boston. Thereupon the commissioner, having made or caused to be made an amended return, assessed an additional tax for each year upon the amounts so deducted, which additional taxes the bank paid under protest. This suit is brought to recover the sums so paid.

The Federal statute imposing the tax provides:

SEC. 38. First. That every corporation, joint-stock company, or association organized for profit and having a capital stock represented by shares, and every insurance company now or hereafter organized under the laws of the United States or any State or Territory of the United States or under the acts of Congress applicable to Alaska or the District of Columbia, or now or hereafter organized under the laws of any foreign country and engaged in business in any State or Territory of the United States or in Alaska or in the District of Columbia, shall be subject to pay annually a special excise tax with respect to the carrying on or doing business by such corporation, joint-stock company or association, or insurance company, equivalent to one per centum upon the entire net income over and above five thousand dollars received by it from all sources during such year, exclusive of certain amounts therein specified, which may be deducted.

Second. Such net income shall be ascertained by deducting from the gross amount of the income of such corporation, joint-stock company or association, or insurance company, received within the year from all sources, * * *.

Fourth. All sums paid by it within the year for taxes imposed under the authority of the United States or of any State or Territory thereof, or imposed by the government of any foreign country as a condition to carrying on business therein.

The first question presented is whether the bank had the right under this clause to deduct the taxes levied under the provisions of Massachusetts revised laws (c. 14, ss. 9–18) which it had paid to the city of Boston.

The revised laws of Massachusetts in c. 14 provide:

SEC. 9. All the shares of stock in banks, whether of issue or not, existing by authority of the United States or of the Commonwealth, and located within the Commonwealth, shall be assessed to the owner thereof in the city or town in which such bank is located, and not elsewhere, in the assessment of State, county, and town taxes, whether such owner is a resident of said city or town or not. They shall be assessed

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at their fair cash value on the first day of May, first deducting therefrom the proportionate part of the value of the real estate belonging to the bank, at the same rate as other moneyed capital in the hands of citizens is by law assessed. The persons who appear from the books of the banks to be owners of shares at the close of the business day last preceding the first day of May shall be deemed to be the owners thereof.

SEC. 10. Every such bank shall pay the tax so assessed to the collector or other person authorized to receive the same at the time when other taxes in the city or town become due. If not so paid, said tax, with interest thereon at the rate of twelve per cent per annum from the day when it became due, may be recovered from said bank in an action of contract by the collector of such city or town.

SEC. 11. The shares of such banks shall be subject to the tax paid thereon by the corporation or by the officers thereof, and the corporation and the officers thereof shall have a lien on all the shares in such bank and on all the rights and property of the shareholders in the corporate property for the payment of said taxes.

SEC. 12. The cashier of every such bank shall make and deliver to the assessors of the city or town in which it is located, on or before the tenth day of May in each year, a statement under oath showing the name of each shareholder, with his residence and the number of shares belonging to him at the close of the business day last preceding the first day of May, as the same then appeared on the books of said bank. If the cashier fails to make such statement, said assessors shall forthwith obtain a list of the names and residences of shareholders and of the number of shares belonging to each. They shall, forthwith, upon obtaining such statement or list, transmit a copy thereof to the tax commissioner; and shall immediately upon the ascertainment of the rate per cent upon the valuation of the total tax in such city or town for the year, give to said commissioner written notice thereof, and also of the amount assessed by them upon the shares of each bank located therein.

SEC. 13. Said commissioner shall thereupon determine the amount of the tax assessed upon shares in each of said banks which would not be liable to taxation in said city or town according to the provisions of chapter twelve; and such amount shall be a charge against said city or town. He shall, in like manner, determine the amount of tax so assessed upon shares which would be so liable to taxation in each city or town other than that in which the bank is located; and such amount shall be a credit to each city or town. He shall forthwith give notice in writing by mail or at their office to the assessors of each city or town thereby affected of the aggregate amount so charged against and credited to it; and they may within ten days after notice of such determination appeal therefrom to the board of appeal constituted under the provisions of section sixty-five.

SEC. 18. The assessors of a city or town, upon request of any person resident therein who is the owner of any shares in such banks or other corporations which, under the provisions of clauses nine and ten of section five of chapter twelve, would be entitled to exemption from taxation, shall give to him a certificate stating such facts; and the treasurer of such city or town, upon request therefor, and the deposit with him of such certificate, shall pay over to such owner the amount so collected in respect of such shares immediately upon the allowance made to such city or town under the provisions of this chapter.

There can be no doubt but that the clause in the Federal statute providing for the deduction from the gross income of a corporation of "all sums paid by it within the year for taxes imposed under the authority of * * * any State" means taxes imposed upon it and not upon some other person or corporation. No other reasonable conclusion could be drawn from the language used.

This being so, it is contended by the plaintiff that inasmuch as under the provisions of the Massachusetts statute the bank is compelled to pay a tax assessed upon the shares of the stockholders or, in case of default, is made liable to an action of contract for such tax, with interest at the rate of 12 per cent, the tax is in legal effect assessed upon the bank and that the bank upon paying it discharged its own obligation, and is therefore entitled to have it deducted in ascertaining its net income in the assessment of the Federal tax. But this is clearly not the true construction of the Massachusetts statute and is not the one which has been placed upon it either by the State or Federal courts. The bank having paid the tax, is under the statute given "a lien on all the shares in such bank and on all the rights and property of the shareholders in the corporate property for the payment of said taxes"; and, while the statute does not expressly give the bank a right of action over against the individual stockholders to recover from each of them their proportionate part of the tax which

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it has paid, it is evident that as the bank in the payment of the tax acts under compulsion of law and not voluntarily, and the payment is for the benefit of the stockholders, that a contract will be implied in law entitling it to recover from each stockholder his proportionate part of the tax as money paid by the bank for the stockholder's benefit. Home Savings Bank *v.* Des Moines (205 U. S., at page 518). In that case it was said that—

The tax assessed to shareholders may be required by law to be paid in the first instance by the corporations themselves as the debt and in behalf of the shareholders, leaving to the corporations the right to reimbursement of the tax paid from their shareholders, either under some express statutory authority for their recovery or under the general principle of law that one who pays the debt of another at his request can recover the amount from him.

Then, again, in Allen *v.* The Assessors (3 Wall., 573), it was held that—

The tax on the shares is not a tax on the capital of the bank. The corporation is the legal owner of all the property of the bank, real and personal; and within the powers conferred upon it by the charter, and for the purposes for which it was created, can deal with the corporate property as absolutely as a private individual can deal with his own * * *. The interest of the shareholder entitles him to participate in the net profits earned by the bank in the employment of its capital, during the existence of its charter, in proportion to the number of his shares; and upon its dissolution or termination, to his proportion of the property that may remain of the corporation after the payment of its debts. This is a distinct independent interest or property, held by the shareholder like any other property that may belong to him. Now, it is this interest which the act of Congress has left subject to taxation by the States under the limitations prescribed.

In addition to the provisions of the statute giving the bank, upon payment of the tax, a lien upon the shares and all the rights and property of the shareholders in the corporate property for the payment of the tax, and in addition to the implied obligation of the stockholders to repay the bank the money so paid, there are other provisions in the statute which requires the tax when collected to be credited to the towns in which the stockholders reside (sec. 13) and that allow stockholders who are entitled to exemption (sec. 18) to recover from the city or town in which they reside the money paid by the bank to discharge their proportion of the tax. All this makes it certain that the tax is upon the stockholder and not upon the bank, and that in paying it the bank does so as agent.

My conclusion, therefore, is that as the taxes paid to the city of Boston in the years in question were not assessed upon the bank, but upon the shareholders, and were paid for their benefit, the bank is not entitled to have them deducted in ascertaining its net income, as was done in its returns to the Commissioner of Internal Revenue in the years 1909, 1910, and 1911.

Was the Commissioner of Internal Revenue vested with authority to amend the original returns of the bank and assess additional taxes thereon for the years 1909, 1910, and 1911, he not having discovered the error in the returns until after the taxes assessed on those returns had been paid?

In the third subdivision of section 38 of the corporation tax law it is provided:

Third. * * * said tax shall be computed upon the remainder of said net income of such corporation, * * * for the year ending December thirty-first, nineteen hundred and nine, and for each calendar year thereafter; and on or before the first day of March, nineteen hundred and ten, and the first day of March in each year thereafter, a true and accurate return, under oath or affirmation of its president, vice president, or other principal officer, and its treasurer or assistant treasurer, shall be made by each of the corporations * * * subject to the tax imposed by this section, to the collector of internal revenue for the district in which such corporation * * * has its principal place of business * * * in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, etc.

Fourth. Whenever evidence shall be produced before the Commissioner of Internal Revenue which, in the opinion of the commissioner shall justify the belief that the return made by any corporation * * * is incorrect, or whenever any collector shall report to the Commissioner of Internal Revenue that any corporation * * *

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has failed to make a return as required by law, the Commissioner of Internal Revenue may require from the corporation * * * making such return, such further information with reference to its capital, income, losses, and expenditures as he may deem expedient; and the Commissioner of Internal Revenue, for the purpose of ascertaining the correctness of such return, or for the purpose of making a return when none has been made, is hereby authorized by any regularly appointed revenue agent specially designated by him for that purpose, to examine any books or papers bearing upon the matters required to be included in the return of such corporation * * * and to require the attendance of any officer or employee of such corporation * * * and to take his testimony with reference to the matter required by law to be included in such return, * * *. Upon the information so acquired the Commissioner of Internal Revenue may amend any return or make a return where none has been made.

Fifth. All returns shall be retained by the Commissioner of Internal Revenue, who shall make assessments thereon; and in case of any return made with false or fraudulent intent, he shall add one hundred per centum of such tax, and in case of a refusal or neglect to make a return or to verify the same as aforesaid he shall add fifty per centum of such tax. In case of neglect occasioned by the sickness or absence of any officer of such corporation * * * required to make said return, or for other sufficient reason, the collector may allow such further time for making and delivering such return as he may deem necessary, not exceeding thirty days. The amount so added to the tax shall be collected at the same time and in the same manner as the tax originally assessed unless the refusal, neglect, or falsity is discovered after the date for payment of said taxes, in which case the amount so added shall be paid by the delinquent corporation, * * * immediately upon notice given by the collector. All assessments shall be made and the several corporations * * * shall be notified of the amount for which they are respectively liable on or before the first day of June of each successive year, and said assessments shall be paid on or before the thirtieth day of June, except in cases of refusal or neglect to make such return, and in cases of false or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained as above provided for, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such corporation, * * * immediately upon information of the amount of such assessment.

In assessing taxes under this statute the following steps are to be taken:

(1) The corporation is to make a true and accurate return of its income not later than March 1 in each year (par. 3).

(2) Upon such return a tax is to be assessed and the corporation notified of the amount thereof on or before June 1 in each year. And the tax is to be paid on or before June 30 (par. 5).

(3) If the commissioner, upon evidence produced before him, is of the opinion that a corporation has made an incorrect return, or is informed by the collector that a corporation has failed to make a return, the commissioner is authorized to designate a revenue agent to examine the books of the corporation and to take testimony, and upon obtaining the desired information, to amend the incorrect return, or make a return, as the case may be (par. 4).

(4) If the return was made incorrect—that is, false or fraudulent—or no return was made through failure or neglect, then the commissioner, upon discovery thereof at any time within three years from March 1 of the year when the return was due, having obtained the desired information, as above provided, and amended the return, or made one, may assess the tax, which is to be paid by the corporation on June 30, or immediately upon notification of the amount, depending upon whether the notification is prior or subsequent to June 30, in the year in which the return was due (par. 5).

(5) If the information obtained discloses that the return was made with false and fraudulent intent, the commissioner is to add a penalty of one hundred per centum to the true tax, and in case the corporation has refused or neglected to make a return before March 1, or within the time as extended by the collector, not exceeding thirty days (which he may do when the neglect is occasioned by sickness or absence of the officers of the corporation required to make the return, or for other sufficient reason), then the commissioner, having made a return and assessed the true tax, is author-

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ized to add a penalty of fifty per centum to the tax. The penalties so added are to be collected at the same time and in the same manner as the tax on returns regularly made, unless the refusal, neglect, or falsity is discovered after the date fixed for the payment of the tax on returns regularly made. But if the discovery of either of these facts is not made until after that date, then the commissioner is authorized, upon the discovery of either of them within three years after March 1 in the year in which the return was due, and having assessed the true tax, as above stated, to add the penalty of fifty or one hundred per centum to the true tax, according as the facts warrant, and to collect the same upon notice to the corporation (par. 5).

The case discloses that the plaintiff, having paid the taxes assessed on returns which it had made in the regular course for the years above stated, on February 27, 1913, at the request of the commissioner, filed supplemental returns for each of those years, and that on March 1, 1913, the commissioner made the additional assessments here complained of.

The plaintiff takes the position that the commissioner had no authority to make the additional assessments after the taxes had been assessed and paid on the original returns, as the original returns were not made with a false and fraudulent intent; that the statute confers authority upon the commissioner to amend returns and assess taxes thereon after taxes have been assessed and paid in the regular course only where the error in the original returns was inserted with a false and fraudulent intent, and not where, as in this case, the error or misstatement in the returns was made in good faith and under an erroneous construction of the law.

The question, therefore, narrows itself down to this: Does the word "false," as used in the phrase "false or fraudulent" in that clause of paragraph 5 authorizing the commissioner to assess additional taxes upon an amended return at any time within three years after the original return was due, mean an error or misstatement due to an honest mistake, or is it confined and limited to errors or misstatements made with an intention to mislead and deceive?

A false return in the absence of an intention to mislead is not a fraudulent one. That Congress in the enactment of this law so understood the meaning of the word and used it is disclosed by the language employed in a previous clause of the same paragraph, where it authorizes the imposition of a penalty of one hundred per cent of the true tax in case the error in the original returns proceeded from a false and fraudulent intent. In that clause it is manifest that it was intended the Commissioner should not have the power to impose a penalty of one hundred per cent unless the error in the original return was false and made with an intent to deceive and mislead. And the reasonable inference is that if Congress had intended that the power of the commissioner in the assessment of taxes upon amended returns, either before or after the taxes assessed on the original returns were due and payable, should exist only in case the error or misstatement was inserted in the original returns with an intention to mislead and deceive, it would have used terms as plain and unambiguous as it did in conferring the authority to impose a penalty of one hundred per cent; and that as it did not employ such language, it should be held not to have so intended.

My conclusion on this branch of the case is that the commissioner was authorized to make the additional assessment even though the errors in the original returns were due to an honest mistake and were not discovered until after the taxes assessed in the regular course had been paid.

The defendant also contends that the additional assessment for the year 1909 is invalid, for the alleged reason that it was not made within three years from March 1, 1910, when the return for the year 1909 was due. This contention is without foundation. The statute does not require the additional assessment to be made within the three years' period. The limitation is upon the discovery of the error by the commissioner within the three years and not upon the making of the additional assessment. But however this may be, the additional assessment in this instance was made within

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three years from March 1, 1910, for that date is to be excluded in computing the time fixed by the statute. The general rule for the interpretation of statutes where time is to be computed from a particular day, as when an act is to be performed within a specified period from or after a day named, is to exclude the day thus designated and to include the last day of the specified period. Sheets *v.* Selden (2 Wall., 177); Trust *v.* Green Cove Springs & M. Railroad Co. (139 U. S., 145); Hicks *v.* National Life Insurance Co. (9 C. C. A., 218).

The petition is dismissed, with costs, and a decree will be entered accordingly.

(T. D. 1937.)

Income tax.

Corporations are not permitted to deduct from gross or net income for the year 1913 any portion of specific exemption authorized under corporation tax law.—Sec. 38, act Aug. 5, 1909.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 26, 1914.

Section 2 of the act approved October 3, 1913, known as the Federal Income Tax Law, provides that all corporations, joint-stock companies, and all insurance companies, except those specifically enumerated as exempt, shall be subject to the normal tax imposed upon individuals, such tax to be levied, assessed, and paid annually upon the entire net income arising or accruing from all sources during the preceding calendar year.

The provisions of this act apply to corporations which have or may have income arising or accruing on and after March 1, 1913. For the purpose of covering the liability of corporations to special excise tax for the months of January and February, 1913, the provisions of the corporation tax law (sec. 38, act Aug. 5, 1909) were extended, and in subsection S of the income tax law it is provided that the net income for these two months shall be ascertained in accordance with the provisions of subsection G of section 2 of the act of October 3, 1913, that is, in the same manner as the net income for the remaining 10 months of the year is ascertained.

In the subsection G, just cited, all items or charges against income, which constitute allowable deductions from gross income, are specifically set out. No provision, either express or implied, is made in this subsection or elsewhere in the act for the allowance of all or any portion of the specific exemption ($5,000) allowed under the corporation tax law. As applied to the months of January and February, 1913, the income tax law in effect amends the corporation tax law by eliminating the specific exemption previously allowed, and provides that the tax for that period shall be measured by the net income ascertained according to the rule set out in subsection G of the later act. (See second proviso in subsec. S, act Oct. 3, 1913.)

The third proviso of subsection S also provides that—

For the year 1913 it shall not be necessary to make more than one return and assessment for all taxes imposed * * * by way of income or special excise.

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The net income for both kinds of taxes and for both periods of the year being ascertained in exactly the same manner, but one return covering the entire calendar year 1913 is required. That return will show the entire net income ascertained in accordance with the provisions of the income tax law, and no specific exemption whatever being authorized, such net income as returned for the entire year will be the amount upon which the tax is computed.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 1938.)

Income tax.

Extension of time to April 1, 1914, for the use of Forms 1001, 1003, and 1004, as provided in T. D. 1907 of November 26, 1913.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 29, 1914.

Notice is hereby given that Forms 1001, 1003, and 1004, as adapted to the use of foreign organizations, foreign partnerships, and foreign fiduciaries, when properly filled in and signed, and giving the information required by regulations, may be accepted by debtors or withholding agents until March 31, 1914.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
JOHN SKELTON WILLIAMS,
Acting Secretary of the Treasury.

(T. D. 1939.)

Income tax.

Blank forms of certificates and other forms required in connection with the collection of income tax and making of returns by taxpayers will be furnished on application to the Commissioner of Internal Revenue. Forms may be printed by corporations and others, provided they conform strictly to department requirements as to size, print, and contents. In making requisition on the department for forms no more should be requested than the absolute needs of the office make necessary.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 28, 1914.

To collectors of internal revenue:

You are instructed that the department will furnish blank forms of certificates and other forms required to be used in connection with the collection of the income tax and the making of their returns by taxpayers to such parties as may make application for the same.

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Private corporations and others desiring to have these forms printed for themsleves may do so if they will strictly observe the requirements of the department as to size, print, and contents of the forms and certificates as prescribed by the regulations.

In pursuance of the desire of the department to furnish every possible facility to aid taxpayers in complying with the law, requisition should be made for such quantity of the various forms as may be found necessary in each collection district, and these forms will be forwarded immediately upon application. Attention is called, however, to the fact that a large stock of these forms should not be accumulated in any office, and that for the present, particular caution should be exercised so as not to make requisition for more than the absolute needs of each office. It is contemplated that in the near future a combination of certain forms of certificates may be arranged for, and these consolidated or combined certificates will be furnished as soon as practicable. When such combined certificates shall be furnished, the use of the older or original certificates—that is, those now in use—should be discontinued at the earliest possible date.

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

Approved:
JOHN SKELTON WILLIAMS,
Acting Secretary of the Treasury.

(T. D. 1940.)

Opium—Act of January 17, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 31, 1914.

The appended act of Congress, approved January 17, 1914, is published for the information of internal-revenue officers and others concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

AN ACT Regulating the manufacture of smoking opium within the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an internal-revenue tax of $300 per pound shall be levied and collected upon all opium manufactured in the United States for smoking purposes; and no person shall engage in such manufacture who is not a citizen of the United States and who has not given the bond required by the Commissioner of Internal Revenue. Every person who prepares opium suitable for smoking purposes from crude gum opium, or from any preparation thereof, or from the residue of smoked or partially smoked opium, commonly known as yen shee, or from any mixture of the above, or any of them, shall be regarded as a manufacturer of smoking opium within the meaning of this Act.

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SEC. 2. That every manufacturer of such opium shall file with the collector of internal revenue of the district in which his manufactory is located such notices, inventories, and bonds, shall keep such books and render such returns of material and products, shall put up such signs and affix such number to his factory, and conduct his business under such surveillance of officers and agents as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation require. But the bond required of such manufacturer shall be with sureties satisfactory to the collector of internal revenue, and in a penal sum of not less than $100,000; and the sum of said bond may be increased from time to time and additional sureties required, at the discretion of the collector or under instructions of the Commissioner of Internal Revenue.

SEC. 3. That all opium prepared for smoking manufactured in the United States shall be duly stamped in such a permanent manner as to denote the payment of the internal-revenue tax thereon.

SEC. 4. That the provisions of existing laws covering the engraving, issue, sale, accountability, effacement, cancellation, and the destruction of stamps relating to tobacco and snuff, as far as applicable, are hereby made to apply to stamps provided for by the preceding section.

SEC. 5. That a penalty of not less than $10,000 or imprisonment for not less than five years, or both, in the discretion of the court, shall be imposed for each and every violation of the preceding sections of this Act relating to opium by any person or persons; and all opium prepared for smoking wherever found within the United States without the stamps required by this Act shall be forfeited and destroyed.

SEC. 6. The provisions of the Act of October first, eighteen hundred and ninety Twenty-sixth Statutes, page fifteen hundred and sixty-seven), in so far as they relates to the manufacture of smoking opium, are hereby repealed.

Approved, January 17, 1914.

(T. D. 1941.)

Corporation tax—Building and loan associations—Decision of court.

1. CONSTRUCTION OF CLAUSE.

The words "no part of the net income of which inures to the benefit of any private stockholder or individual" do not apply to domestic building and loan associations operated for the mutual benefit of members.

2. EXEMPTION.

Building and loan associations operated exclusively for the mutual benefit of their members are exempt.

3. ISSUANCE OF PREPAID STOCK.

The issuance of prepaid stock does not destroy mutuality (affirming 203 Fed., 876).

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 31, 1914.

The appended decision of the United States Circuit Court of Appeals for the Third Circuit, in the case of Herold, collector of internal revenue, *v.* Park View Building and Loan Association, is published for the information of internal-revenue officers and others concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

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UNITED STATES CIRCUIT COURT OF APPEALS, THIRD CIRCUIT. OCTOBER TERM, 1913. No. 1801.

Herold, collector, v. *Park View Building and Loan Association.*

ERROR to the District Court of the United States for the District of New Jersey.

Before GRAY, BUFFINGTON, and MCPHERSON, Circuit Judges.

MCPHERSON, *Circuit Judge:* The Park View Building and Loan Association was taxed under section 38 of the act of August 5, 1909 (Supplement of 1911 to Rev. Stats., p. 946), and was compelled to pay $71.04, tax and penalty for the year 1909. This suit, which seeks to recover that sum from the collector, was removed from a State court of New Jersey to the District Court, where the parties agreed upon a statement of facts. The court entered judgment for the association (203 Fed., 876)—Judge Orr presiding specially—and we refer to his opinion with general approval. On two or three branches of the subject something more may, perhaps, be said without extending the discussion unduly.

We do not think it necessary to rely on the rule that words imposing a tax should be clear, doubtful language being construed in favor of the citizen. There is force in the Government's contention that the words in question do not impose a tax at all; that the tax is not laid by the proviso, but by the first clause of the section, which includes "every corporation," etc.; and therefore that the court is asked to construe not language that lays a tax but language that exempts. The Government insists that a different rule should be applied in such a situation and that a doubt must be resolved against a claim of exemption. We lay the subject aside, however, for we do not think the questions presented are doubtful enough to require the aid of either rule.

Let us consider first the question Judge Orr did not decide—namely, what effect should be given to the words hereafter italicized in the proviso to the first paragraph of section 38. After imposing a special excise tax upon "every corporation, joint stock company, or association organized for profit and having a capital stock represented by shares," etc., the paragraph proceeds to state certain exceptions to the generality of this clause:

Provided, however, That nothing in this section contained shall apply to labor, agricultural, or horticultural organizations, or to fraternal beneficiary societies, orders, or associations operating under the lodge system and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, or associations, and dependents of such members, nor to domestic building and loan associations, organized and operated exclusively for the mutual benefit of their members, nor to any corporation or association organized and operated exclusively for religious, charitable, or educational purposes, *no part of the net income of which inures to the benefit of any private stockholder or individual.*

The Government's argument on this branch of the case is based upon the contention that the words in italics qualify the whole proviso and apply to every organization or association named therein, including a building association, like the plaintiff, that issues what is known as prepaid stock. (This is not preferred stock, as will appear in a few moments.) We do not agree with this position. As we construe the proviso, it excepts four groups of corporations:

Labor, agricultural, or horticultural organizations.

Fraternal beneficiary societies, orders, or associations operating under the lodge system, and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, or associations, and dependents of such members.

Domestic building and loan associations organized and operated exclusively for the mutual benefit of their members.

Any corporation or association organized and operated exclusively for religious, charitable, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual.

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The character of the first three groups is well known. In none of them (as normally conducted) does the net income inure to the benefit of private stockholders or individuals, and it would have been superfluous to add that feature to the description. But there is a large and a more indeterminate class—"religious, charitable, and educational" corporations or associations—and this class contains some members whose precise character may not be altogether easy to define. For example, a church is, no doubt, organized and operated exclusively for religious purposes; but is this true of a camp-meeting association also? Such an association sometimes has net income that inures, at least in part, to the benefit of private stockholders or individuals. A hospital is usually organized and operated exclusively for charitable purposes; but there are private hospitals operated by associations whose net income goes to the benefit of individuals. The exclusive purpose of a school is educational, but the income of many schools operated by associations is devoted to private profit. Indeed, everyone acquainted with the problems of State taxation know how often the courts have been called on to determine the scope and application of statutes exempting charitable and educational institutions from taxation, and we see no reason to doubt that Congress intended to avoid such disputes as far as possible by establishing both a positive and a negative test for the restricted membership in the fourth group. Positively (although the use of the word "exclusively" makes this test partly negative also) the test is that the corporations and associations must be organized and operated exclusively for religious, charitable, and educational purposes, and negatively the test is that none of such corporations and associations shall devote its net income, in whole or in part, to the benefit of any private stockholder or individual.

As pointed out in the association's brief, section 2 of the income tax provisions of the act of October 3, 1913, lends force to the construction that confines the italicized clause to the fourth group. Section 2 in clause 3 of the act of 1913 repeals section 38 of the act of 1909, the reason being that an earlier clause (G) is, in effect, a substitute for section 38 and that Congress did not intend to impose two taxes of the same nature at the same time, one by the act of 1913 and the other by the act of 1909. Being a substitute, therefore, clause G also contains an excepting proviso, and this is as follows:

Provided, however, That nothing in this section shall apply to labor, agricultural, or horticultural organizations, or to mutual savings banks not having a capital stock represented by shares, or to fraternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, or associations and dependents of such members, nor to domestic building and loan associations, nor to cemetery companies, organized and operated exclusively for the mutual benefit of their members, nor to any corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual, nor to business leagues, nor to chambers of commerce or boards of trade not organized for profit or no part of the net income of which inures to the benefit of the private stockholder or individual, nor to any civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare.

We think it is clear that the repeated use here made by Congress of the negative clause, "no part of the net income of which inures to the benefit of any private stockholder or individual," throws light upon the previous use of the same clause in the act of 1909 and strengthens the construction we have adopted. We agree that the argument is somewhat weakened by the possibility of supposing that Congress was trying to make more clear in the act of 1913 what may have been thought obscure in the act of 1909, and we wish to avoid even the appearance of evading this consid eration; but certainly both constructions are available, and one seems as likely to be correct as the other. We believe the view we have indicated should be adopted.

But there is another reason for believing that the clause in italics could not have been intended to apply to the group of "domestic building and loan associations organized and operated exclusively for the mutual benefit of their members." And the reason

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is this, such application leads to a conclusion that may fairly be described as absurd. Every building association is organized and operated for the mutual benefit of its members; this benefit is attained by profits, and profit is gained by the use of its funds, whether derived from installments, premiums, interest, or fines, supplemented by forfeitures, and by such dealing in real estate as it may be permitted or obliged to undertake. In every year of its normal operations it expects to have a net income, and of course this net income belongs or inures to its members. Now, while the members can hardly be described accurately as "private" stockholders (the word seems to be contrasted with some other relation to a particular association), they are certainly "individuals"; and, therefore, if the right of a building association to be exempted by the proviso is to be tested by the fact that no private stockholder or individual receives any benefit from its net income, the inevitable result will follow that the proviso has no effect upon building and loan associations at all, and that no such association can be exempted. We have said that in our opinion this conclusion comes near to absurdity, and we think that result is too plain to require further discussion.

But the chief contention of the Government is that the association is not organized and operated exclusively for the mutual benefit of its members, and the sole support of the argument is found in the fact that the association issues prepaid stock. We repeat that this is not preferred stock. The New Jersey statute forbids the issue of such stock—namely, stock whose holders enjoy advantages greater than the holders of the common stock—while the issue of common stock that is prepaid is expressly authorized:

> No such association shall issue preferred or other than common stock, and all shareholders shall occupy the same relative status as to debts and losses of the association, but nothing herein shall forbid agreements with shareholders who pay full par or maturity value of shares in advance, whereby they may waive participation in the general profits of the association in consideration of a fixed annual profit.

The holders of the stock in question have waived their right to share with installment stock in the general profits of the association, and they have agreed to accept in lieu thereof (but only "out of the profits of the association") 5 per cent yearly on the amount prepaid. This is the only difference between the prepaid stock and the installment stock; the parties have stipulated—

> * * * That the rights of the two classes of stockholders are in all respects identical except as to the participation in the profits of the association as above set forth; that the profits of the Park View Building and Loan Association during the year 1909 and subsequent thereto have been in excess of 5 per cent per annum.

We think, therefore, the question may be properly stated in this form: Is the foregoing arrangement for the mutual benefit of the parties? In our opinion the answer should be in the affirmative.

The subject of prepaid stock has been much discussed. Several courts have declared against it and a few legislatures have forbidden it, but the decided weight of authority, judicial and legislative, is in its favor. The course of the discussion is partially indicated in 4 Am. and Eng. Ency. (2d ed.), 1030 (text and notes) and in 6 Cyc., 127 (text and notes); but a much better reference than either of these is Folk *v.* State Capital, etc., Association (214 Pa., 529). In Folk's case Judge Endlich, of the common pleas court of Berks County, discussed the subject elaborately and came to the conclusion (p. 535) that there is authority of a very high and persuasive order for holding—

> * * * That the acceptance of prepayment of stock and the issuance thereupon of full-paid dividend-bearing stock is in no proper sense a borrowing of money * * *; that, remembering that a building association can not successfully perform its intended functions without members who are simply investors and not borrowers, its power to aid the latter class of members, and thus the main purpose of its creation, will be promoted by attracting investing members capable of putting larger sums at the society's disposal than can be speedily gathered by means of periodical payments alone; that the allowance of a fixed dividend upon such paid-up stock out of the

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profits of the corporate business is a reasonable incident to its issuance, just to both classes of shareholders and not calculated to give either an undue advantage over the other; that, on the contrary, the practical effect of the concurrent issuance of both installment and full-paid stock is likely to prove beneficial to both classes of shareholders; that no essential characteristic of the building association scheme can be regarded as forbidding, and no essential purpose of it as defeated by, this device; that it is contrary to no accepted rule of policy applicable to or involved in the nature of building associations; and that (in Pennsylvania) it is not excluded by statutory provisions in terms authorizing and regulating operations on the footing of instalment stock, but not clearly confining associations thereto or expressly prohibiting any other, and it is to be noted that with this view every adjudicated case involving the point under discussion appears to be in harmony, except, perhaps, the one above referred to decided in North Carolina.

And the Supreme Court of Pennsylvania in the brief opinion approving and adopting Judge Endlich's opinion has this to say upon the subject (p. 543):

The general purpose of building associations is the accumulation of funds to be loaned to their members and to be repaid in small periodical payments. The accumulation from the payment of installments on stock is so slow as often to hamper their practical operations, and different methods have been adopted to provide funds to meet the demands of borrowing members promptly, and thus to promote the general purpose. Building associations are authorized by the act of June 25, 1895 (P. L., 303), to borrow money for temporary use when applications for loans exceed the accumulations in the treasury and when a series of stock has matured. The issuing by these associations of full-paid stock to serve the same purpose as borrowing is an enlargement of their scope of operations not inconsistent with their original design, if properly restricted. While it has not been expressly authorized by the legislature, there is a distinct recognition of the practice by the act of June 22, 1897 (P. L., 178), which subjects such stock to taxation. We find nothing unlawful in the issuing of full-paid stock, the dividends of which are not guaranteed, but are limited in amount and payable only out of the profits, and the holders of which are entitled to no preference and have no advantage over other stockholders upon distribution in case of loss or insolvency, provided that the issue is incidental to the main business of the association and is intended to provide a fund from which loans may be made to the holders of installment stock. To this extent and for this purpose its issue is within the implied powers of such associations.

Judge Endlich is the author of a standard treatise on building associations, and in sections 461–464 of the second edition he has again considered the subject and has stated the results of the prevailing principles to be as follows:

464. The result of the principles declared and applied in these decisions would seem to be, in the absence of any statutory provision expressly authorizing or prohibiting it, (1) that building associations may always permit prepayment of stock subscriptions to be received, with or without rebate or interest allowance in consideration of such prepayment; (2) that, in pursuance of charter provisions, such associations may issue paid-up stock with the incident of priority in distribution over installment stock; (3) that, under a like power and the right to pay dividends, they may issue paid-up stock bearing income at any given reasonable rate per annum payable in cash out of and to the extent of the earnings of the association—an arrangement on the part of any corporation to pay interest or dividends to its shareholders, without reference to the ability of the company to pay them out of its earnings, being wholly illegal and void.

We agree with these conclusions and with the reasoning that supports them, and we see no occasion to prolong the discussion. In our opinion, the members of the Park View Building & Loan Association are mutually benefited by the issue of the prepaid stock in question, and as a consequence the association is organized and operated exclusively for such benefit. It is certain that the association regards the arrangement as mutually beneficial, for it has availed itself of the statutory permission to adopt it; and we may be sure that the keen sense of self-interest possessed by the members of such associations would scarcely tolerate an arrangement—even if the statute did not expressly forbid it—that would constitute a small class of privileged stockholders with rights superior to their fellows.

Looking at the subject from as many points of view as possible, we are persuaded that Congress intended the word "mutual" to mean "substantially equal," and that

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a building association is organized and operated for the mutual benefit of its members when they share in the profits on substantially the same footing. Exact equality is probably not possible where part of the stock is prepaid and part is installment; but an approximate equality, sufficiently close for all purposes, is certainly not beyond the reach of calculation. We have no doubt that such a calculation is always made before the terms are adopted upon which prepaid stock is allowed to share in profits.

In brief, the Park View Building & Loan Association was "organized" exclusively for the mutual benefit of its members; the New Jersey Legislature required such benefit to be its object, and (as a means of attaining it) expressly permitted the use of prepaid stock. And the association is in fact "operated" for their mutual benefit, if we may trust the abundant and well-reasoned authority that approves of prepaid stock, and if we may rely also on the strong antecedent probability that the members would not agree to any arrangement that would disturb their substantially equal footing.

The judgment is affirmed.

(T. D. 1942.)

Income tax.

Income tax ruling as to income derived from bonds containing "tax-free covenant clause," and how same may be returned on Form 1040 when *exemption is not claimed* at the source.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 3, 1914.

To collectors of internal revenue:

This office is in receipt of numerous letters asking whether income *paid at the source*, although not *withheld* at the source, can be placed in column A, page 2, of Form 1040, and in reply to this inquiry you will advise as follows:

The stipulation in bonds whereby the tax which may be assessed against them or the income therefrom is guaranteed is a contract wholly between the corporation and the bondholder, and in so far as the income tax law applies the Government will not differentiate between coupons from bonds of this character and those from bonds carrying no such guarantee. The debtor corporation, or its duly authorized withholding agent, will be held responsible for the normal tax due on the coupons on which no tax has been withheld in cases wherein no exemption is claimed.

Income paid by "debtors" from March 1 to November 1, 1913, shall be included in the return of the individual (under column B, page 2, of Form 1040) as income upon which the normal tax of 1 per cent has not been withheld and paid at the source.

Income received by individuals between November 1 and December 31, 1913, upon which the normal tax has been withheld at the source shall be included in their annual return (under column A, page 2, of Form 1040) as income upon which the tax has been paid.

W. H. OSBORN,
Commissioner of Internal Revenue.

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(T. D. 1943.)

Income tax.

Instructions to collectors relative to fiduciaries and returns to be made by them on Form 1041.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 4, 1914.

To collectors of internal revenue:

T. D. 1908 provides that all fiduciaries shall on or before March 1 of each year, when the annual interest of any beneficiary in the income of the estate or trust is in excess of $3,000 ($2,500 for the year 1913), make and render a return of the income of the person or persons (the beneficiaries) for whom they act to the collector of internal revenue of the district in which the fiduciary resides.

Where a decedent died after March 1 in the year 1913, and from March 1 up to the date of his death had a net income of $2,500 or more, the fiduciary (i. e., the executor or administrator) should make a return for the decedent on Form 1040, and the income tax, both normal and additional, shown to be due thereon will be a debt against the estate of the decedent. The same principle will apply to subsequent years if the net income of the decedent from January 1 to the date of his death amounts to $3,000 or more. No other return is required to be made by the fiduciary until the settlement of the estate has reached the stage when the beneficiaries thereof and their respective interests in the *income* derived from the estate are determinable, and then the fiduciary is required to file a return on or before March 1 of each year, as prescribed by the regulations.

The fiduciary will enter on page 2 of Form 1041, under the appropriate heads, all income accruing to the beneficiaries of the trust or estate from March 1 to December 31, 1913, inclusive; but the interest derived from the obligations of a State or any political subdivision thereof and the obligations of the United States or its possessions is not to be included.

The fiduciary will enter on page 3 of Form 1041 for the year 1913 five-sixths of the deductions allowable under paragraph B of the law, and on line 1 it will be proper for the fiduciary to enter all legitimate expenses incurred in administering the estate or trust. If the fiduciary holds and rents business or residential property and pays insurance, water rents, commissions for the collection of rents, or any other necessary expenses in managing the estate or trust, it will be proper to enter same on line 1 as an allowable deduction.

The amount to be shown on page 1, line 3, will represent the total amount of income accruing through the fiduciary to the beneficiaries of the estate or trust which is subject to the normal tax, and when

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the interest of any one beneficiary in this amount from November 1 to December 31, 1913, inclusive, was in excess of $3,000, whether distributed or not, the fiduciary was required to withhold and pay the normal tax on the whole $3,000 and excess thereof, unless the beneficiary filed with the fiduciary Form 1007, as prescribed by the regulations, claiming exemption under paragraph C, and in that event the fiduciary was only required to withhold and pay the normal tax on the amount in excess of the exemption claimed.

T. D. 1906 prescribes that when fiduciaries make their annual return they shall give the name and full address of each beneficiary and the share of income to which each may be entitled, which information shall be given on page 1 of Form 1041. In the column "Amount of income paid or accrued to beneficiaries" should be entered the respective interest of the beneficiary in the amount of income as shown on page 1, line 3.

When the interest of any beneficiary in the amount of income subject to the normal tax, as shown on Form 1041, page 1, line 3, is in excess of $3,000, and the same was paid to the beneficiary within the period from November 1 to December 31, 1913, both dates inclusive, the fiduciary was required to *withhold and pay the normal tax* as prescribed by the regulations, and the information required should be given on Form 1041, page 1, giving the name and full address of each beneficiary, the amount of income paid or payable to each beneficiary (this amount would be the beneficiary's interest in the amount of income subject to the normal tax as shown on line 3), the amount of exemption claimed under paragraph C (if any), the amount of income on which normal tax should be withheld, and the amount of tax withheld, all to be given in the respective columns in the order named.

A fiduciary acting for a minor or insane person who had a net income of $2,500 or more for the year 1913 will make the return for his ward on Form 1040 and will not be required to file a return on Form 1041, unless he has more than one ward by reason of the same estate or trust; then in that event a return will be required on Form 1041, and a separate return on Form 1040 for each ward having a net income of $2,500 or more for the year 1913.

The income accruing or paid to a beneficiary through a fiduciary may be composed in part of *dividends*, or income upon which the normal tax has been *withheld and paid or to be paid at the source*, or income derived from the obligations of a State or any political subdivision thereof or from the obligations of the United States or its possessions (income from obligations of a State or any political subdivision thereof and from the obligations of the United States or its possessions is not subject to the tax and should not be included). If a beneficiary has other income which, added to the income accruing

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to him through his fiduciary, gives him a net income of $2,500 or more for the period from March 1 to December 31, 1913, inclusive, he should make a return of his gross income on Form 1040, as required by the regulations.

To illustrate: If a fiduciary's gross income was $10,000, derived from the following sources:

1. Interest upon the obligations of the United States	$1,000
2. Dividends on stock or net earnings of corporations	2,000
3. Interest from bonds containing "tax-free covenant clause," upon which the fiduciary did not claim any exemption at source and which he entered on Form 1041, on page 2, column A, as income on which normal tax was withheld	2,000
4. Income from rents, etc	5,000
	10,000

the fiduciary's return on Form 1041 would show as follows:

Page 2.	Line 3, column B, amount of rents	$5,000
	Line 5, interest from bonds, "tax-free clause," column A	2,000
	Line 10, dividends	2,000
	Aggregate total of gross income	9,000
	(No entry of interest on United States bonds, $1,000.)	
Page 3.	Line 1, necessary expenses actually paid in carrying on business, including compensation of fiduciary, water rents, insurance, etc	450
	Line 3, taxes paid	400
	Line 6, actual repairs made on building, or amount allowed for wear and tear	150
	Line 7, dividends not subject to normal tax	2,000
	Line 8, amount of income on which normal tax has been deducted and withheld at source, bonds with "tax-free clause"	2,000
	Total deductions	5,000
Page 1.	Line 1, gross income	9,000
	Line 2, total deductions	5,000
	Line 3, amount of income due beneficiary, which is subject to normal tax	4,000

The beneficiary has filed with the *fiduciary as a withholding agent* a claim for exemption under paragraph C for $2,500 (exemption of single person for 1913), and the return on Form 1041 would show on page 1, in addition to the foregoing entries, the following:

John Doe, 76 B Street, New York City.

In third column, amount of income paid or accrued to beneficiary	$4,000
In fourth column, amount of exemption claimed	2,500
In fifth column, amount of income on which fiduciary is liable to tax	1,500
In sixth column, amount of normal tax withheld	15

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In the foregoing illustration the beneficiary, in his return on Form 1040, would make no return of item 1, interest on United States bonds. Item 2, dividends, would be entered on page 2, line 11, and for the purpose of calculating the normal tax would be an allowable deduction on page 1, line 4. Item 3, interest on bonds, would be entered on page 2, line 7, column A, and for the purpose of calculating the normal tax would be an allowable deduction on page 1, line 5. Item 4, rents, would be entered on page 2, line 7; $1,500 in column A, and $2,500 in column B (exemption of $2,500 claimed and no tax withheld on this amount). This would show—

Income received from fiduciary subject to be returned on Form 1040..... $8,000
Deductions and exemption allowable in calculating normal tax..... 8,000
No normal tax due, it having been paid at the source by the fiduciary as shown by his return on Form 1041.

In making the foregoing entry on Form 1040, on line 11, there should be written just above the printed heading, "Amount received from fiduciary," and the amount should be entered in the appropriate column.

No illustration is given of income accruing to the beneficiary from *other sources*, an illustration of this not being deemed necessary, as such income is entered in the usual way.

W. H. OSBORN,
Commissioner of Internal Revenue.

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Regulations No. 33 : : : : : United States Internal Revenue

LAW AND REGULATIONS

RELATIVE TO

THE TAX ON INCOME OF INDIVIDUALS, CORPORATIONS, JOINT STOCK COMPANIES, ASSOCIATIONS, AND INSURANCE COMPANIES

IMPOSED BY SECTION 2
ACT OF OCTOBER 3, 1913

January 5, 1914

WASHINGTON
GOVERNMENT PRINTING OFFICE
1914

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INCOME TAX LAW.

[Section 2, act October 3, 1913.]

A. Subdivision 1. That there shall be levied, assessed, collected and paid annually upon the entire net income arising or accruing from all sources in the preceding calendar year to every citizen of the United States, whether residing at home or abroad, and to every person residing in the United States, though not a citizen thereof, a tax of 1 per centum per annum upon such income, except as hereinafter provided; and a like tax shall be assessed, levied, collected, and paid annually upon the entire net income from all property owned and of every business, trade, or profession carried on in the United States by persons residing elsewhere. Normal tax, how levied.

Subdivision 2. In addition to the income tax provided under this section (herein referred to as the normal income tax) there shall be levied, assessed, and collected upon the net income of every individual an additional income tax (herein referred to as the additional tax) of 1 per centum per annum upon the amount by which the total net income exceeds $20,000 and does not exceed $50,000, and 2 per centum per annum upon the amount by which the total net income exceeds $50,000 and does not exceed $75,000, 3 per centum per annum upon the amount by which the total net income exceeds $75,000 and does not exceed $100,000, 4 per centum per annum upon the amount by which the total net income exceeds $100,000 and does not exceed $250,000, 5 per centum per annum upon the amount by which the total net income exceeds $250,000 and does not exceed $500,000, and 6 per centum per annum upon the amount by which the total net income exceeds $500,000. All the provisions of this section relating to individuals who are chargeable with the normal income tax, so far as they are applicable and are not inconsistent with this subdivision of paragraph A, shall apply to the levy, assessment, and collection of the additional tax imposed under Additional tax on net incomes in excess of $20,000.

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this section. Every person subject to this additional tax shall, for the purpose of its assessment and collection, make a personal return of his total net income from all sources, corporate or otherwise, for the preceding calendar year, under rules and regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury. For the purpose of this additional tax the taxable income of any individual shall embrace the share to which he would be entitled of the gains and profits, if divided or distributed, whether divided or distributed or not, of all corporations, joint-stock companies, or associations however created or organized, formed or fraudulently availed of for the purpose of preventing the imposition of such tax through the medium of permitting such gains and profits to accumulate instead of being divided or distributed; and the fact that any such corporation, joint-stock company, or association, is a mere holding company, or that the gains and profits are permitted to accumulate beyond the reasonable needs of the business shall be prima facie evidence of a fraudulent purpose to escape such tax; but the fact that the gains and profits are in any case permitted to accumulate and become surplus shall not be construed as evidence of a purpose to escape the said tax in such case unless the Secretary of the Treasury shall certify that in his opinion such accumulation is unreasonable for the purposes of the business. When requested by the Commissioner of Internal Revenue, or any district collector of internal revenue, such corporation, joint-stock company, or association shall forward to him a correct statement of such profits and the names of the individuals who would be entitled to the same if distributed.

Personal return of net income to be made annually.

Interest in gains and profits of corporations to be included.

Accumulated gains and profits beyond needs, how regarded.

Net income, items constituting same.

B. That, subject only to such exemptions and deductions as are hereinafter allowed, the net income of a taxable person shall include gains, profits, and income derived from salaries, wages, or compensation for personal service of whatever kind and in whatever form paid, or from professions, vocations, businesses, trade, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in real or personal property, also from interest, rent, dividends, securities, or the transaction of any lawful business carried on for gain or profit, or gains or profits

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and income derived from any source whatever, including the income from but not the value of property acquired by gift, bequest, devise, or descent: *Provided*, That the proceeds of life insurance policies paid upon the death of the person insured or payments made by or credited to the insured, on life insurance, endowment, or annuity contracts, upon the return thereof to the insured at the maturity of the term mentioned in the contract, or upon surrender of contract, shall not be included as income.

Property acquired by gift, etc., and life insurance paid or allowed, exempt.

That in computing net income for the purpose of the normal tax there shall be allowed as deductions: First, the necessary expenses actually paid in carrying on any business, not including personal, living, or family expenses; second, all interest paid within the year by a taxable person on indebtedness; third, all national, State, county, school, and municipal taxes paid within the year, not including those assessed against local benefits; fourth, losses actually sustained during the year, incurred in trade or arising from fires, storms, or shipwreck, and not compensated for by insurance or otherwise; fifth, debts due to the taxpayer actually ascertained to be worthless and charged off within the year; sixth, a reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business, not to exceed, in the case of mines, 5 per centum of the gross value at the mine of the output for the year for which the computation is made, but no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made: *Provided*, That no deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate; seventh, the amount received as dividends upon the stock or from the net earnings of any corporation, joint stock company, association, or insurance company which is taxable upon its net income as hereinafter provided; eighth, the amount of income, the tax upon which has been paid or withheld for payment at the source of the income, under the provisions of this section, provided that whenever the tax upon the income of a person is required to be withheld and paid at the source as hereinafter required, if such annual income does not exceed the sum of $3,000 or is not fixed or certain, or is indefinite,

Deductions allowed in computing net income for the purpose of the normal tax.

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or irregular as to amount or time of accrual, the same shall not be deducted in the personal return of such person.

Net income of nonresidents, from property owned in United States.

The net income from property owned and business carried on in the United States by persons residing elsewhere shall be computed upon the basis prescribed in this paragraph and that part of paragraph G of this section relating to the computation of the net income of corporations, joint-stock and insurance companies, organized, created, or existing under the laws of foreign countries, in so far as applicable.

Interest on obligations of State or of United States and compensation of certain U. S. officers exempt from tax.

That in computing net income under this section there shall be excluded the interest upon the obligations of a State or any political subdivision thereof, and upon the obligations of the United States or its possessions; also the compensation of the present President of the United States during the term for which he has been elected, and of the judges of the supreme and inferior courts of the United States now in office, and the compensation of all officers and employees of a State or any political subdivision thereof except when such compensation is paid by the United States Government.

Deduction of $3,000 allowed each single person, and $1,000 additional for married man and wife living together.

C. That there shall be deducted from the amount of the net income of each of said persons, ascertained as provided herein, the sum of $3,000, plus $1,000 additional if the person making the return be a married man with a wife living with him, or plus the sum of $1,000 additional if the person making the return be a married woman with a husband living with her; but in no event shall this additional exemption of $1,000 be deducted by both a husband and a wife: *Provided*, That only one deduction of $4,000 shall be made from the aggregate income of both husband and wife when living together.

Period for which tax is to be computed.

D. The said tax shall be computed upon the remainder of said net income of each person subject thereto, accruing during each preceding calendar year ending December thirty-first: *Provided, however*, That for the year ending December thirty-first, nineteen hundred and thirteen, said tax shall be computed on the net income accruing from March first to December thirty-first, nineteen hundred and thirteen, both dates inclusive, after deducting five-sixths only of the specific exemptions and deductions

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herein provided for. On or before the first day of March, nineteen hundred and fourteen, and the first day of of March in each year thereafter, a true and accurate return, under oath or affirmation, shall be made by each person of lawful age, except as hereinafter provided, subject to the tax imposed by this section, and having a net income of $3,000 or over for the taxable year, to the collector of internal revenue for the district in which such person resides or has his principal place of business, or, in the case of a person residing in a foreign country, in the place where his principal business is carried on within the United States, in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, setting forth specifically the gross amount of income from all separate sources and from the total thereof, deducting the aggregate items or expenses and allowance herein authorized; guardians, trustees, executors, administrators, agents, receivers, conservators, and all persons, corporations, or associations acting in any fiduciary capacity, shall make and render a return of the net income of the person for whom they act, subject to this tax, coming into their custody or control and management, and be subject to all the provisions of this section which apply to individuals: *Provided*, That a return made by one of two or more joint guardians, trustees, executors, administrators, agents, receivers, and conservators, or other persons acting in a fiduciary capacity, filed in the district where such person resides, or in the district where the will or other instrument under which he acts is recorded, under such regulations as the Secretary of the Treasury may prescribe, shall be a sufficient compliance with the requirements of this paragraph; and also all persons, firms, companies, copartnerships, corporations, joint-stock companies or associations, and insurance companies, except as hereinafter provided, in whatever capacity acting, having the control, receipt, disposal, or payment of fixed or determinable annual or periodical gains, profits, and income of another person subject to tax, shall in behalf of such person deduct and withhold from the payment an amount equivalent to the normal income tax upon the same and make and render a return, as aforesaid, but separate and distinct, of the portion of the income of each person from which the normal tax has been thus withheld, and containing also the name and address of

Return to be made under oath by each person having a net income of $3,000 or over.

Gross income from all sources to be specified.

Guardians, trustees, etc., to make return for persons for whom they act.

Persons, firms, etc., having control of determinable income payable to others.

Normal tax to be deducted and return thereof made.

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such person or stating that the name and address or the address, as the case may be, are unknown: *Provided*, That the provision requiring the normal tax of individuals to be withheld at the source of the income shall not be construed to require any of such tax to be withheld prior to the first day of November, nineteen hundred and thirteen: *Provided further*, That in either case above mentioned no return of income not exceeding $3,000 shall be required: *Provided further*, That any persons carrying on business in partnership shall be liable for income tax only in their individual capacity, and the share of the profits of a partnership to which any taxable partner would be entitled if the same were divided, whether divided or otherwise, shall be returned for taxation and the tax paid, under the provisions of this section, and any such firm, when requested by the Commissioner of Internal Revenue, or any district collector, shall forward to him a correct statement of such profits and the names of the individuals who would be entitled to the same, if distributed: *Provided further*, That persons liable for the normal income tax only, on their own account or in behalf of another, shall not be required to make return of the income derived from dividends on the capital stock or from the net earnings of corporations, joint-stock companies or associations, and insurance companies taxable upon their net income as hereinafter provided. Any person for whom return has been made and the tax paid, or to be paid as aforesaid, shall not be required to make a return unless such person has other net income, but only one deduction of $3,000 shall be made in the case of any such person. The collector or deputy collector shall require every list to be verified by the oath or affirmation of the party rendering it. If the collector or deputy collector have reason to believe that the amount of any income returned is understated, he shall give due notice to the person making the return to show cause why the amount of the return should not be increased, and upon proof of the amount understated may increase the same accordingly. If dissatisfied with the decision of the collector, such person may submit the case, with all the papers, to the Commissioner of Internal Revenue for his decision, and may furnish sworn testimony of witnesses to prove any relevant facts.

No return required unless income exceeds $3,000.

Interest in partnership profits to be included in return.

Partnerships must submit statements when required.

Dividends on stock, when to be excluded from return.

Returns to be verified by oath, and amended returns may be required by collector.

Appeals from decision of collector.

Assessments, notice, and payments of.

E. That all assessments shall be made by the Commissioner of Internal Revenue and all persons shall be notified

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of the amount for which they are respectively liable on or before the first day of June of each successive year, and said assessments shall be paid on or before the thirtieth day of June, except in cases of refusal or neglect to make such return and in cases of false or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained as provided for in this section or by existing law, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such person or persons immediately upon notification of the amount of such assessment; and to any sum or sums due and unpaid after the thirtieth day of June in any year, and for ten days after notice and demand thereof by the collector, there shall be added the sum of 5 per centum on the amount of tax unpaid, and interest at the rate of 1 per centum per month upon said tax from the time the same became due, except from the estates of insane, deceased, or insolvent persons.

Limitation as to time when assessment may be paid without incurring penalty.

Penalty and interest in case of nonpayment within 10 days after June 30th.

All persons, firms, copartnerships, companies, corporations, joint-stock companies or associations, and insurance companies, in whatever capacity acting, including lessees or mortgagors of real or personal property, trustees acting in any trust capacity, executors, administrators, agents, receivers, conservators, employers, and all officers and employees of the United States having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual gains, profits, and income of another person, exceeding $3,000 for any taxable year, other than dividends on capital stock, or from the net earnings of corporations and joint-stock companies or associations subject to like tax, who are required to make and render a return in behalf of another, as provided herein, to the collector of his, her, or its district, are hereby authorized and required to deduct and withhold from such annual gains, profits, and income such sum as will be sufficient to pay the normal tax imposed thereon by this section, and shall pay to the officer of the United States Government authorized to receive the same; and they are each hereby made personally liable for such tax. In all cases where the income tax of a person is withheld and deducted and paid or to be paid at

Persons, firms, etc., withholding normal tax on behalf of others.

Return to be made to collector of district.

Tax to be paid to officer authorized to receive same.

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the source, as aforesaid, such person shall not receive the benefit of the deduction and exemption allowed in paragraph C of this section except by an application for refund of the tax unless he shall, not less than thirty days prior to the day on which the return of his income is due, file with the person who is required to withhold and pay tax for him, a signed notice in writing claiming the benefit of such exemption and thereupon no tax shall be withheld upon the amount of such exemption: *Provided*, That if any person for the purpose of obtaining any allowance or reduction by virtue of a claim for such exemption, either for himself or for any other person, knowingly makes any false statement or false or fraudulent representation, he shall be liable to a penalty of $300; nor shall any person under the foregoing conditions be allowed the benefit of any deduction provided for in subsection B of this section unless he shall, not less than thirty days prior to the day on which the return of his income is due, either file with the person who is required to withhold and pay tax for him a true and correct return of his annual gains, profits, and income from all other sources, and also the deductions asked for, and the showing thus made shall then become a part of the return to be made in his behalf by the person required to withhold and pay the tax, or likewise make application for deductions to the collector of the district in which return is made or to be made for him: *Provided further*, That if such person is a minor or an insane person, or is absent from the United States, or is unable owing to serious illness to make the return and application above provided for, the return and application may be made for him or her by the person required to withhold and pay the tax, he making oath under the penalties of this Act that he has sufficient knowledge of the affairs and property of his beneficiary to enable him to make a full and complete return for him or her, and that the return and application made by him are full and complete: *Provided further*, That the amount of the normal tax hereinbefore imposed shall be deducted and withheld from fixed and determinable annual gains, profits, and income derived from interest upon bonds and mortgages, or deeds of trust or other similar obligations of corporations, joint-stock companies or associations, and insurance companies, whether payable annually or at shorter or longer periods, although such interest does not amount to $3,000, subject to the provisions of this section requiring the tax to be

Notice must be filed in advance for claims for exemption under paragraph C.

Penalty for filing false claim.

Notice must be filed in advance for claim for deduction under paragraph B.

Returns, for minors, insane persons, etc., by whom made.

Normal tax to be deducted and withheld, at source of income from bonds, etc., of corporations.

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withheld at the source and deducted from annual income and paid to the Government; and likewise the amount of such tax shall be deducted and withheld from coupons, checks, or bills of exchange for or in payment of interest upon bonds of foreign countries and upon foreign mortgages or like obligations (not payable in the United States), and also from coupons, checks, or bills of exchange for or in payment of any dividends upon the stock or interest upon the obligations of foreign corporations, associations, and insurance companies engaged in business in foreign countries; and the tax in each case shall be withheld and deducted for and in behalf of any person subject to the tax hereinbefore imposed, although such interest, dividends, or other compensation does not exceed $3,000, by any banker or person who shall sell or otherwise realize coupons, checks, or bills of exchange drawn or made in payment of any such interest or dividends (not payable in the United States), and any person who shall obtain payment (not in the United States), in behalf of another of such dividends and interest by means of coupons, checks, or bills of exchange, and also any dealer in such coupons who shall purchase the same for any such dividends or interest (not payable in the United States), otherwise than from a banker or another dealer in such coupons; but in each case the benefit of the exemption and the deduction allowable under this section may be had by complying with the foregoing provisions of this paragraph.

Dividends on stocks, or interest on foreign bonds, mortgages, etc.

All persons, firms, or corporations undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner of Internal Revenue, and shall be subject to such regulations enabling the Government to ascertain and verify the due withholding and payment of the income tax required to be withheld and paid as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; and any person who shall knowingly undertake to collect such payments as aforesaid without having obtained a license therefor, or without complying with such regulations, shall be deemed guilty of a misdemeanor and for each offense be fined in a sum not exceeding $5,000, or imprisoned for a term not exceeding one year, or both, in the discretion of the court.

License to be obtained by persons, etc., engaged in business of collecting foreign payments of interest, etc.

Penalty for failure to obtain license.

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Liability for tax not affected by any contract entered into after passage of act.

Nothing in this section shall be construed to release a taxable person from liability for income tax, nor shall any contract entered into after this Act takes effect be valid in regard to any Federal income tax imposed upon a person liable to such payment.

The tax herein imposed upon annual gains, profits, and income not falling under the foregoing and not returned and paid by virtue of the foregoing shall be assessed by personal return under rules and regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury.

Deductions at source apply to normal tax only.

The provisions of this section relating to the deduction and payment of the tax at the source of income shall only apply to the normal tax hereinbefore imposed upon individuals.

Penalty for refusal or neglect to make required return or for making false return.

F. That if any person, corporation, joint-stock company, association, or insurance company liable to make the return or pay the tax aforesaid shall refuse or neglect to make a return at the time or times hereinbefore specified in each year, such person shall be liable to a penalty of not less than $20 nor more than $1,000. Any person or any officer of any corporation required by law to make,

Penalty for making false or fraudulent return.

render, sign, or verify any return who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by this section to be made shall be guilty of a misdemeanor, and shall be fined not exceeding $2,000 or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

Normal tax to be assessed and paid on annual net income of corporations, joint stock companies and associations.

G. (a) That the normal tax hereinbefore imposed upon individuals likewise shall be levied, assessed, and paid annually upon the entire net income arising or accruing from all sources during the preceding calendar year to every corporation, joint-stock company or association, and every insurance company, organized in the United States, no matter how created or organized, not including partnerships; but if organized, authorized, or existing under the laws of any foreign country, then upon the amount of net income accruing from business transacted and capital invested within the United States during such year: *Provided, however,* That nothing in

Tax not to apply to certain organizations specified.

this section shall apply to labor, agricultural, or horticultural organizations, or to mutual savings banks not having a capital stock represented by shares, or to fra-

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ternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, or associations and dependents of such members, nor to domestic building and loan associations, nor to cemetery companies, organized and operated exclusively for the mutual benefit of their members, nor to any corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual, nor to business leagues, nor to chambers of commerce or boards of trade, not organized for profit or no part of the net income of which inures to the benefit of the private stockholder or individual; nor to any civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare: *Provided further*, That there shall not be taxed under this section any income derived from any public utility or from the exercise of any essential governmental function accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State, Territory, or the District of Columbia, nor any income accruing to the government of the Philippine Islands or Porto Rico, or of any political subdivision of the Philippine Islands or Porto Rico: *Provided*, That whenever any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, has, prior to the passage of this Act, entered in good faith into a contract with any person or corporation, the object and purpose of which is to acquire, construct, operate or maintain a public utility, no tax shall be levied under the provisions of this Act upon the income derived from the operation of such public utility, so far as the payment thereof will impose a loss or burden upon such State, Territory, or the District of Columbia, or a political subdivision of a State or Territory; but this provision is not intended to confer upon such person or corporation any financial gain or exemption or to relieve such person or corporation from the payment of a tax as provided for in this section upon the part or portion of the said income to which such person or corporation shall be entitled under such contract.

Income derived from public utilities or governmental functions accruing to States, Territories, etc.

Exemptions not to apply to gains or profits derived from contracts by persons or corporations.

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Net income of corporations, joint-stock companies, etc., how ascertained.

(b) Such net income shall be ascertained by deducting from the gross amount of the income of such corporation, joint-stock company or association, or insurance company, received within the year from all sources, (first) all the ordinary and necessary expenses paid within the year in the maintenance and operation of its business and properties, including rentals or other payments required to be made as a condition to the continued use or possession of property; (second) all losses actually sustained within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation by use, wear and tear of property, if any; and in the case of mines a reasonable allowance for depletion of ores and all other natural deposits, not to exceed 5 per centum of the gross value at the mine of the output for the year for which the computation is made; and in case of insurance companies the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts: *Provided*, That mutual fire insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves: *Provided further*, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year; (third) the amount of interest accrued and paid within the year on its indebtedness to an amount of such indebtedness not exceeding one-half of the sum of its interest bearing

Losses and depreciations.

Mutual fire insurance companies.

Mutual marine insurance companies.

Life insurance companies.

To what extent interest accruing and paid during the year on indebtedness may be deducted from income.

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indebtedness and its paid-up capital stock outstanding at the close of the year, or if no capital stock, the amount of interest paid within the year on an amount of its indebtedness not exceeding the amount of capital employed in the business at the close of the year: *Provided*, That in case of indebtedness wholly secured by collateral the subject of sale in ordinary business of such corporation, joint-stock company, or association, the total interest secured and paid by such company, corporation, or association within the year on any such indebtedness may be deducted as a part of its expense of doing business: *Provided further*, That in the case of bonds or other indebtedness, which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed shall be allowed; and in the case of a bank, banking association, loan, or trust company, interest paid within the year on deposits or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company; (fourth) all sums paid by it within the year for taxes imposed under the authority of the United States or of any State or Territory thereof, or imposed by the Government of any foreign country: *Provided*, That in the case of a corporation, joint-stock company or association, or insurance company, organized, authorized, or existing under the laws of any foreign country, such net income shall be ascertained by deducting from the gross amount of its income accrued within the year from business transacted and capital invested within the United States, (first) all the ordinary and necessary expenses actually paid within the year out of earnings in the maintenance and operation of its business and property within the United States, including rentals or other payments required to be made as a condition to the continued use or possession of property; (second) all losses actually sustained within the year in business conducted by it within the United States and not compensated by insurance or otherwise, including a reasonable allowance for depreciation by use, wear and tear of property, if any, and in the case of mines a reasonable allowance for depletion of ores and all other natural deposits, not to exceed 5 per centum of the gross value at the mine of the output for the year for which the computation is

Bonds issued with guaranty that interest shall be free from taxation.

Interest on deposits may be deducted from gross income.

Taxes paid.

Foreign corporations, etc., income from business in United States.

Ordinary expenses, rentals, etc.

Losses and depreciation.

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Reserve funds of insurance companies.

made; and in case of insurance companies the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts: *Provided*

Mutual fire insurance.

further, That mutual fire insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves: *Provided further*,

Mutual marine insurance.

That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment thereof and the payment thereof and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such

Interest accruing and paid during the year on indebtedness.

year; (third) the amount of interest accrued and paid within the year on its indebtedness to an amount of such indebtedness not exceeding the proportion of one-half of the sum of its interest bearing indebtedness and its paid-up capital stock outstanding at the close of the year, or if no capital stock, the capital employed in the business at the close of the year which the gross amount of its income for the year from business transacted and capital invested within the United States bears to the gross amount of its income derived from all sources within and without the United States: *Provided*, That in the case

Bonds whose makers have agreed to pay interest without tax deduction.

of bonds or other indebtedness which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed shall be allowed; (fourth) all sums

Taxes.

paid by it within the year for taxes imposed under the authority of the United States or of any State or Territory thereof or the District of Columbia. In the case of assess-

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ment insurance companies, whether domestic or foreign, the actual deposit of sums with State or Territorial officers, pursuant to law, as additions to guarantee or reserve funds shall be treated as being payments required by law to reserve funds.

Insurance reserve funds.

(c) The tax herein imposed shall be computed upon its entire net income accrued within each preceding calendar year ending December thirty-first: *Provided, however,* That for the year ending December thirty-first, nineteen hundred and thirteen, said tax shall be imposed upon its entire net income accrued within that portion of said year from March first to December thirty-first, both dates inclusive, to be ascertained by taking five-sixths of its entire net income for said calendar year: *Provided further,* That any corporation, joint-stock company or association, or insurance company subject to this tax may designate the last day of any month in the year as the day of the closing of its fiscal year and shall be entitled to have the tax payable by it computed upon the basis of the net income ascertained as herein provided for the year ending on the day so designated in the year preceding the date of assessment instead of upon the basis of the net income for the calendar year preceding the date of assessment; and it shall give notice of the day it has thus designated as the closing of its fiscal year to the collector of the district in which its principal business office is located at any time not less than thirty days prior to the date upon which its annual return shall be filed. All corporations, joint-stock companies or associations, and insurance companies subject to the tax herein imposed, computing taxes upon the income of the calendar year, shall, on or before the first day of March, nineteen hundred and fourteen, and the first day of March in each year thereafter, and all corporations, joint-stock companies or associations, and insurance companies, computing taxes upon the income of a fiscal year which it may designate in the manner hereinbefore provided, shall render a like return within sixty days after the close of its said fiscal year, and within sixty days after the close of its fiscal year in each year thereafter, or in the case of a corporation, joint-stock company or association, or insurance company, organized or existing under the laws of a foreign country, in the place where its principal business is located within the United States, in such form as the Commissioner of Internal Revenue, with the

Tax to be computed on net income accruing each calendar year.

But fiscal year other than calendar may be designated by corporations.

Returns, when to be rendered.

Returns, under oath or affirmation to be filed with collector of district.

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approval of the Secretary of the Treasury, shall prescribe, shall render a true and accurate return under oath or affirmation of its president, vice president, or other principal officer, and its treasurer or assistant treasurer, to the collector of internal revenue for the district in which it has its principal place of business, setting forth (*first*) the total amount of its paid-up capital stock outstanding, or if no capital stock, its capital employed in business, at the close of the year; (*second*) the total amount of its bonded and other indebtedness at the close of the year; (*third*) the gross amount of its income, received during such year from all sources, and if organized under the laws of a foreign country the gross amount of its income received within the year from business transacted and capital invested within the United States; (*fourth*) the total amount of all its ordinary and necessary expenses paid out of earnings in the maintenance and operation of the business and properties of such corporation, joint-stock company or association, or insurance company within the year, stating separately all rentals or other payments required to be made as a condition to the continued use or possession of property, and if organized under the laws of a foreign country the amount so paid in the maintenance and operation of its business within the United States; (*fifth*) the total amount of all losses actually sustained during the year and not compensated by insurance or otherwise, stating separately any amounts allowed for depreciation of property, and in case of insurance companies the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts: *Provided further*, That mutual fire insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves: *Provided further*, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on

Information to be included in return of corporation.

Paid-up capital.

Bonded indebtedness.

Gross income.

Ordinary expenses of operation and maintenance.

Rental, etc.

Losses and depreciation.

Additional reserve funds.

Certain premium deposits not to be returned as taxable income.

Premiums, reinsurance, etc.

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account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment thereof and the payment thereof and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year; and in case of a corporation, joint-stock company or association, or insurance company, organized under the laws of a foreign country, all losses actually sustained by it during the year in business conducted by it within the United States, not compensated by insurance or otherwise, stating separately any amounts allowed for depreciation of property, and in case of insurance companies the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts: *Provided further*, That mutual fire insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves: *Provided further*, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year; (*sixth*) the amount of interest accrued and paid within the year on its bonded or other indebtedness not exceeding one-half of the sum of its interest bearing indebtedness and its paid-up capital stock, outstanding at the close of the year, or if no

Foreign corporations doing business in the United States.

Reserve fund.

Mutual fire insurance companies.

Mutual marine insurance companies.

Life insurance companies.

What interest on bonded indebtedness may be deducted.

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capital stock, the amount of interest paid within the year on an amount of indebtedness not exceeding the amount of capital employed in the business at the close of the year, and in the case of a bank, banking association, or trust company, stating separately all interest paid by it within the year on deposits; or in case of a corporation, joint-stock company or association, or insurance company, organized under the laws of a foreign country, interest so paid on its bonded or other indebtedness to an amount of such bonded or other indebtedness not exceeding the proportion of its paid-up capital stock outstanding at the close of the year, or if no capital stock, the amount of capital employed in the business at the close of the year, which the gross amount of its income for the year from business transacted and capital invested within the United States bears to the gross amount of its income derived from all sources within and without the United States; (*seventh*) the amount paid by it within the year for taxes imposed under the authority of the United States and separately the amount so paid by it for taxes imposed by the Government of any foreign country; (*eighth*) the net income of such corporation, joint-stock company or association, or insurance company, after making the deductions in this subsection authorized. All such returns shall as received be transmitted forthwith by the collector to the Commissioner of Internal Revenue.

Interest paid on deposits deductible from incomes.

Interest on indebtedness of foreign corporations.

Taxes paid.

Net income to be shown on return.

All assessments shall be made and the several corporations, joint-stock companies or associations, and insurance companies shall be notified of the amount for which they are respectively liable on or before the first day of June of each successive year, and said assessment shall be paid on or before the thirtieth day of June: *Provided*, That every corporation, joint-stock company or association, and insurance company, computing taxes upon the income of the fiscal year which it may designate in the manner hereinbefore provided, shall pay the taxes due under its assessment within one hundred and twenty days after the date upon which it is required to file its list or return of income for assessment; except in cases of refusal or neglect to make such return, and in cases of false or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained as provided for in this section or by existing law, and the assessment made by the Commissioner of Internal Revenue

Assessments to be made, and notice to be given.

Assessed taxes, when to be paid, by corporation, etc.

When false return has been rendered and facts are detected within 3 years, commissioner may make new assessment.

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thereon shall be paid by such corporation, joint-stock company or association, or insurance company immediately upon notification of the amount of such assessment; and to any sum or sums due and unpaid after the thirtieth day of June in any year, or after one hundred and twenty days from the date on which the return of income is required to be made by the taxpayer, and after ten days notice and demand thereof by the collector, there shall be added the sum of 5 per centum on the amount of tax unpaid and interest at the rate of 1 per centum per month upon said tax from the time the same becomes due.

Penalty and interest incurred by failure to pay tax within prescribed time.

(d) When the assessment shall be made, as provided in this section, the returns, together with any corrections thereof which may have been made by the commissioner, shall be filed in the office of the Commissioner of Internal Revenue and shall constitute public records and be open to inspection as such: *Provided*, That any and all such returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President: *Provided further*, That the proper officers of any State imposing a general income tax may, upon the request of the governor thereof, have access to said returns or to an abstract thereof, showing the name and income of each such corporation, joint stock company, association or insurance company, at such times and in such manner as the Secretary of the Treasury may prescribe.

Returns rendered to be filed with Commissioner of Internal Revenue.

Returns to be open to inspection under certain conditions.

If any of the corporations, joint-stock companies or associations, or insurance companies aforesaid, shall refuse or neglect to make a return at the time or times hereinbefore specified in each year, or shall render a false or fraudulent return, such corporation, joint-stock company or association, or insurance company shall be liable to a penalty of not exceeding $10,000.

Penalty to corporations, etc., for refusing or neglecting to file required return.

H. That the word "State" or "United States" when used in this section shall be construed to include any Territory, Alaska, the District of Columbia, Porto Rico, and the Philippine Islands, when such construction is necessary to carry out its provisions.

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Secs. 3167, 3172, 3173, 3176, Revised Statutes, amended.

I. That sections thirty-one hundred and sixty-seven, thirty-one hundred and seventy-two, thirty-one hundred and seventy-three, and thirty-one hundred and seventy-six of the Revised Statutes of the United States as amended are hereby amended so as to read as follows:

Sec. 3167.

"SEC. 3167. It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return by any person or corporation, or to permit any income return or copy thereof or any book containing any abstract of particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return or any part thereof or the amount or source of income, profits, losses, or expenditures appearing in any income return; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and if the offender be an officer or employee of the United States he shall be dismissed from office and be incapable thereafter of holding any office under the Government.

Sec. 3172.

"SEC. 3172. Every collector shall, from time to time, cause his deputies to proceed through every part of his district and inquire after and concerning all persons therein who are liable to pay any internal-revenue tax, and all persons owning or having the care and management of any objects liable to pay any tax, and to make a a list of such persons and enumerate said objects.

Sec. 3173.

"SEC. 3173. It shall be the duty of any person, partnership, firm, association, or corporation, made liable to any duty, special tax, or other tax imposed by law, when not otherwise provided for, in case of a special tax, on or before the thirty-first day of July in each year, in case of income tax on or before the first day of March in each year, and in other cases before the day on which the taxes accrue, to make a list or return, verified by oath or affirmation, to the collector or a deputy collector of the district where located, of the articles or objects, including the

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amount of annual income charged with a duty or tax, the quantity of goods, wares, and merchandise made or sold and charged with a tax, the several rates and aggregate amount, according to the forms and regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for which such person, partnership, firm, association, or corporation is liable: *Provided*, That if any person liable to pay any duty or tax, or owning, possessing, or having the care or management of property, goods, wares, and merchandise, articles, or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles, and objects liable to pay any duty or tax, or any business or occupation liable to pay any tax as aforesaid, then, and in that case it shall be the duty of the collector or deputy collector to make such list or return, which, being distinctly read, consented to, and signed and verified by oath or affirmation by the person so owning, possessing, or having the care and management as aforesaid, may be received as the list of such person: *Provided further*, That in case no annual list or return has been rendered by such person to the collector or deputy collector as required by law, and the person shall be absent from his or her residence or place of business at the time the collector or a deputy collector shall call for the annual list or return, it shall be the duty of such collector or deputy collector to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum addressed to such person, requiring him or her to render to such collector or deputy collector the list or return required by law within ten days from the date of such note or memorandum, verified by oath or affirmation. And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such list or return within the time required as aforesaid, or whenever any person who is required to deliver a monthly or other return of objects subject to tax fails to do so at the time required, or delivers any return which, in the opinion of the collector, is false or fraudulent, or contains any undervaluation or understatement, it shall be lawful for the collector to summon such person, or any other person having posses-

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sion, custody, or care of books of account containing entries relating to the business of such person, or any other person he may deem proper, to appear before him and produce such books, at a time and place named in the summons, and to give testimony or answer interrogatories, under oath, respecting any objects liable to tax or the returns thereof. The collector may summon any person residing or found within the State in which his district lies; and when the person intended to be summoned does not reside and can not be found within such State, he may enter any collection district where such person may be found and there make the examination herein authorized. And to this end he may there exercise all the authority which he might lawfully exercise in the district for which he was commissioned.

Sec. 3176. "SEC. 3176. When any person, corporation, company, or association refuses or neglects to render any return or list required by law, or renders a false or fraudulent return or list, the collector or any deputy collector shall make, according to the best information which he can obtain, including that derived from the evidence elicited by the examination of the collector, and on his own view and information, such list or return, according to the form prescribed, of the income, property, and objects liable to tax owned or possessed or under the care or management of such person or corporation, company or association, and the Commissioner of Internal Revenue shall assess all taxes not paid by stamps, including the amount, if any, due for special tax, income or other tax, and in case of any return of a false or fraudulent list or valuation intentionally he shall add 100 per centum to such tax; and in case of a refusal or neglect, except in cases of sickness or absence, to make a list or return, or to verify the same as aforesaid, he shall add 50 per centum to such tax. In case of neglect occasioned by sickness or absence as aforesaid the collector may allow such further time for making and delivering such list or return as he may deem necessary, not exceeding thirty days. The amount so added to the tax shall be collected at the same time and in the same manner as the tax unless the neglect or falsity is discovered after the tax has been paid, in which case the amount so added shall be collected in the same manner as the tax; and the list or return so made and subscribed by such collector or deputy collector shall be held prima facie good and sufficient for all legal purposes."

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J. That it shall be the duty of every collector of internal revenue, to whom any payment of any taxes other than the tax represented by an adhesive stamp or other engraved stamp is made under the provisions of this section, to give to the person making such payment a full written or printed receipt, expressing the amount paid and the particular account for which such payment was made; and whenever such payment is made such collector shall, if required, give a separate receipt for each tax paid by any debtor, on account of payments made to or to be made by him to separate creditors in such form that such debtor can conveniently produce the same separately to his several creditors in satisfaction of their respective demands to the amounts specified in such receipts; and such receipts shall be sufficient evidence in favor of such debtor to justify him in withholding the amount therein expressed from his next payment to his creditor; but such creditor may, upon giving to his debtor a full written receipt, acknowledging the payment to him of whatever sum may be actually paid, and accepting the amount of tax paid as aforesaid (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such collector's receipt.

Receipts for tax paid to be given by collector.

Separate receipts to be issued in certain cases when required.

K. That jurisdiction is hereby conferred upon the district courts of the United States for the district within which any person summoned under this section to appear to testify or to produce books shall reside, to compel such attendance, production of books, and testimony by appropriate process.

Jurisdiction conferred on district courts in compelling attendance of witnesses, etc.

L. That all administrative, special, and general provisions of law, including the laws in relation to the assessment, remission, collection, and refund of internal-revenue taxes not heretofore specifically repealed and not inconsistent with the provisions of this section, are hereby extended and made applicable to all the provisions of this section and to the tax herein imposed.

Laws relating to assessment, remission, collection, and refunding of taxes made applicable.

M. That the provisions of this section shall extend to Porto Rico and the Philippine Islands: *Provided*, That the administration of the law and the collection of the taxes imposed in Porto Rico and the Philippine Islands shall be by the appropriate internal-revenue officers of those governments, and all revenues collected in Porto Rico

Provisions relating to income tax extended to Porto Rico and Philippine Islands.

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and the Philippine Islands thereunder shall accrue intact to the general governments, thereof, respectively: *And provided further*, That the jurisdiction in this section conferred upon the district courts of the United States shall, so far as the Philippine Islands are concerned, be vested in the courts of the first instance of said islands: *And provided further*, That nothing in this section shall be held to exclude from the computation of the net income the compensation paid any official by the governments of the district of Columbia, Porto Rico and the Philippine Islands or the political subdivisions thereof. * * *

Income subject to special excise tax under act of Aug. 5, 1909.

Section 4 (paragraph S) of the act of October 3, 1913, further provides * * * That a special excise tax with respect to the carrying on or doing of business, equivalent to 1 per centum upon their entire net income, shall be levied, assessed, and collected upon corporations, joint stock companies or associations, and insurance companies, of the character described in section thirty-eight of the act of August fifth, nineteen hundred and nine, for the period from January first to February twenty-eighth, nineteen hundred and thirteen, both dates inclusive, which said tax shall be computed upon one-sixth of the entire net income of said corporations, joint stock companies or associations, and insurance companies, for said year, said net income to be ascertained in accordance with the provisions of subsection G of section two of this act: *Provided further*, That the provisions of said section thirty-eight of the act of August fifth, nineteen hundred and nine, relative to the collection of the tax therein imposed shall remain in force for the collection of the excise tax herein provided, but for the year nineteen hundred and thirteen it shall not be necessary to make more than one return and assessment for all the taxes imposed herein upon said corporations, joint stock companies or associations, and insurance companies, either by way of income or excise, which return and assessment shall be made at the times and in the manner provided in this act. * * *

One return may be filed for both special excise and income tax for year 1913.

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PREFACE.

The accompanying regulations embrace the various administrative features of the law (sec. 2, act of Oct. 3, 1913) imposing a tax on incomes. They contain instructions relative to the preparation of returns, etc., and are designed to assist both the taxpayer and the officers charged with its enforcement in complying with the requirements of this law.

Liberal construction of the law has been given that those charged with withholding the tax at the source may not do so unnecessarily. Withholding agents may forward evidences of non-liability to payment, when such evidences are received by them, to collector for the district in lieu of the tax. This will relieve them of the necessity of withholding such tax.

The regulations are arranged according to general subjects, as follows:

Part 1. Individual income returns and collections.

Part 2. Collections at the source.

A. Bonds, mortgages, deeds of trust, etc.

B. Bonds, mortgages, deeds of trust, etc., by first bank or collection agency where certificates of owners are not filed.

C. Bonds, mortgages, dividends, etc., of foreign corporations.

D. Salaries, wages, rent, etc.

E. Fiduciaries.

Part 3. Relative to corporations, joint stock companies or associations, and insurance companies.

Part 4. Assessment and collection.

All forms of certificates herein provided shall be 8 inches wide and 3½ inches from top to bottom, and printed on paper of substantial weight and texture.

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REGULATIONS.

Regulations concerning the tax imposed by Section 2, Act of October 3, 1913, on net income of Individuals, Corporations, Joint-stock Companies, Associations, and Insurance Companies.

TREASURY DEPARTMENT.
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 5, 1914.

PART 1.

INDIVIDUAL INCOME RETURNS AND COLLECTIONS.

Persons taxable.

Article 1. Section 2 of the above-named act imposes a tax of 1 per centum (designated as the normal tax) on net incomes arising or accruing from **all sources** during the preceding calendar year to—

(*a*) Every citizen of the United States, whether residing at home or abroad; and

(*b*) Every person residing in the United States, though not a citizen thereof; and

(*c*) From all property owned and from every business, trade, or profession carried on in the United States, by a person residing elsewhere.

Additional or super tax.

Art. 2. Said section also imposes an additional tax on all net incomes of individuals exceeding $20,000, as follows:

1 per cent on incomes exceeding $20,000 and not exceeding $50,000.
2 per cent on incomes exceeding $50,000 and not exceeding $75,000.
3 per cent on incomes exceeding $75,000 and not exceeding $100,000.
4 per cent on incomes exceeding $100,000 and not exceeding $250,000.
5 per cent on incomes exceeding $250,000 and not exceeding $500,000.
6 per cent on incomes exceeding $500,000.

Net income defined.

Art. 3. The **NET INCOME** shall consist of the total gains, profits, and income derived from all sources (desig-

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nated as gross income) less deductions numbered first to sixth, inclusive, specifically enumerated in paragraph B of the act. (See article 6.)

Normal tax; upon what computed.

In computing the taxable income for the purposes of the *normal tax* there shall be deducted from the net income as above ascertained:

(*a*) The amount included in the gross income received as dividends upon the stock or from the net earnings of any corporation, joint-stock company, association, or insurance company which is taxable upon its net income;

(*b*) The amount of income the tax upon which has been paid or withheld for payment at the source; and

(*c*) The specific exemption of $3,000 or $4,000, as the case may be, except in the case of nonresident aliens.

Gross income. What it includes.

Art. 4. Gross income includes all gains, profits, and income derived from—

(*a*) Salaries, wages, or compensation for personal service of whatever kind and in whatever form paid.

(*b*) Professions, vocations, business (including income from copartnerships), trade, commerce, or sales or dealings in property, growing out of the ownership or use of or interest in, real or personal property.

(*c*) Interest, rent, dividends, securities, or transaction of any lawful business carried on for gain or profit. (See art. 67 as to interest on deposits and certificates of deposit.)

(*d*) Gains or profits and income derived from any source whatever, including the *income* from, but not the value of, property acquired by gift, bequest, devise or descent.

The foregoing is held to include all income, gains, and profits arising or accruing from all sources whatever in the calendar year for which the return is made, except as hereinafter specifically stated.

Income exempt from taxation.

Art. 5. The following items should not be included as gross income:

(*a*) *Value* of property acquired by gift, bequest, devise, or descent during the year.

(*b*) Proceeds of life insurance policies paid upon the death of the person insured to beneficiaries, or payments made by or credited to the insured, on life insurance, endowment, or annuity contracts, upon the return thereof to the insured at the maturity of the term mentioned in the contract, but this shall not be construed to

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mean that interest payments to beneficiaries from insurance companies shall not be included as income.

(*c*) Income derived from interest upon the obligations of a State or any political subdivision thereof and upon the obligations of the United States or its possessions;

(*d*) The compensation of the President of the United States in office at the time of the passage of the act of October 3, 1913, during the term for which he was elected, and the judges of the Supreme and inferior courts of the United States in office at the time of the passage of the act of October 3, 1913;

(*e*) The compensation of all officers and employees of a State or any political subdivision thereof, including public-school teachers, etc. When such State officers or employees are compensated by the United States, they must include such income as taxable.

Art. 6. *Deductions and exemptions allowed in computing taxable income for the purposes of the normal tax.*

Deductions allowed under paragraph B.

Under *paragraph B* the following items are to be deducted from the **gross income:**

1. The amount of necessary expenses actually paid for carrying on business, but not including business expenses of partnerships and not including personal, living, or family expenses.

2. All interest paid within the year on personal indebtedness of the taxpayer incurred in the conduct of business.

3. All National, State, county, school, and municipal taxes paid within the year (not including those assessed against local benefits).

4. Losses actually sustained during the year incurred in trade or arising from fires, storms, or shipwreck and not compensated for by insurance or otherwise.

5. Debts due to the taxpayer which have been actually ascertained to be worthless and charged off within the year.

6. Amount representing a reasonable allowance for the exhaustion, wear, and tear of property arising out of its use or employment in the business, not to exceed, in the case of mines, 5 per cent of the gross value at the mine of the output for the year for which the computation is made, *but not including the expense of restoring property or making good the exhaustion thereof, for which an allowance is or has been made,* nor for any amount paid for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate.

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"Gross value at the mine" defined.

The term "gross value at the mine," as used in paragraphs B and G of section 2 of the act of October 3, 1913, prescribing a limit to the amount which may be deducted in the return of individuals and corporations as depreciation in the case of mines, is held to mean the bona fide market value of ore, coal, crude oil, and gas at the mine or well, where such value is established by actual sales at the mine or well; and in case the market value of the product of the mine or well is established at some other place than at the mine or well, or on the basis of the bullion or metallic value of the ore, then the gross value at the mine is held to be the value of the ore, coal, oil, or gas sold, or of the metal produced, less transportation, reduction, and smelting charges.

7. The amount included in gross income received as dividends upon the stock, or upon the net earnings, of any corporation, joint-stock company, association, or insurance company which is taxable upon its net income.

8. The amount of income, the normal tax upon which has been paid or withheld for payment at the source of income.

Gifts or donations made during the year not to be deducted.

None of the above items of deduction shall include money or other items of value disposed of by gift, donation, or endowment.

Exemptions allowed under paragraph C.

Under *paragraph C* the personal exemption of $3,000 or $4,000, as the case may be, is to be deducted from the net income except in the cases of nonresident aliens. (See arts. 7, 9, and 10.)

Tax computed on the calendar year except for 1913.

Art. 7. The act provides that the said normal tax shall be computed on the remainder of said net income accruing during each preceding calendar year, and that for the year ended December 31, 1913, said tax shall be computed on the net income accruing from March 1 to December 31, both dates inclusive, after deducting five-sixths only of the specific exemptions and deductions authorized. A specific exemption, therefore, of $2,500 or $3,333.33, as the case may be, will be allowed for the year 1913.

Income of nonresident aliens subject to the normal tax.

Art. 8. The income of nonresident aliens subject to the normal tax of 1 per cent shall consist of the total gains, profits, and income derived from all property owned, and from every business, trade, or profession carried on and capital invested within the United States (to be designated as gross income), less deductions (1 to 8, inclusive) specifically enumerated in paragraph B of the act (see Art. 6), in so far as said deductions relate to said gains, profits, etc.

Exemption under paragraph C not allowed in computing taxable incomes of nonresident aliens

The specific exemption in paragraph C of the act can not be allowed as a deduction in computing the normal tax of nonresident aliens.

Nonresident aliens subject to additional or surtax.

Nonresident aliens are subject to additional or surtax the same as prescribed in the case of citizens of the United States or persons residing in the United States.

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The responsible heads, agents, or representatives of said nonresident aliens who are in charge of the property owned or business carried on or capital invested shall make full and complete return of said income and shall pay the tax as provided herein.

Specific exemption allowed to single person or married persons living apart.

Art. 9. Under paragraph C, every single person and every married person not living with husband or wife in the sense below defined, who has a net income exceeding $3,000 per annum, is liable to pay the normal tax under this law, but in making return for such tax such person may claim an exemption of $3,000 from his or her total net income.

Specific exemption allowed with respect to aggregate income of husband and wife.

Art. 10. Husband and wife living together are entitled to an exemption of $4,000 only from the aggregate net income of both, which may be deducted in making the return of such income for taxation. However, when the husband and wife are separated and living permanently apart from each other each shall be entitled to an exemption of $3,000.

If husband and wife have separate estates one return may be made showing income of each.

If the husband and wife not living apart have separate estates, the income from both may be made on one return, but the amount of income of each, and the full name and address of both, must be shown in such return.

The husband, as the head and legal representative of the household and general custodian of its income, should make and render the return of the aggregate income of himself and wife, and for the purpose of levying the income tax it is assumed that he can ascertain the total amount of said income.

Wife's return of separate estate to be attached to husband's return or husband's income may be included in wife's return.

If a wife has a separate estate managed by herself as her own separate property and receives an income of $3,000 or over, she may make return of her own income, and if the husband has other net income, making the aggregate of both incomes more than $4,000, the wife's return should be attached to the return of her husband, or his income should be included in her return, in order that a deduction of $4,000 may be made from the aggregate of both incomes. The tax in such case, however, will be imposed only upon so much of the aggregate income of both as shall exceed $4,000.

Return required if either husband or wife has an income of $3,000 or over.

If either husband or wife separately has an income equal to or in excess of $3,000, a return of annual net income is required under the law, and such return must include the income of both, and in such case the return

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must be made even though the combined income of both be less than $4,000.

Return required if aggregate income of husband and wife is in excess of $4,000, although neither may have an income of $3,000 or over.

If the aggregate net income of both exceeds $4,000, an annual return of their combined incomes must be made in the manner stated, although neither one separately may have an income of $3,000 per annum. They are jointly and separately liable for such return and for the payment of the tax.

When status is to be determined.

The single or married status of the person claiming the specific exemption shall be determined as of the time of claiming such exemption if such claim be made within the year for which return is made, otherwise the status at the close of the year.

Interest in partnership profit; how reported.

Art. 11. His or her prorata share of the net profits derived from a partnership business, whether or not divided and paid out shall be included in the personal return of each partner.

Partnerships as such, not liable to tax, but statement may be required.

Art. 12. Partnerships, as such, are not subject to the income tax, and are only required to make return when requested to do so by the Commissioner of Internal Revenue or the collector of internal revenue for the district in which said partnership has its principal place of business; and when a return is required it shall give a complete and correct statement of the gross income of the said partnership and also a complete statement of the actual expenses of conducting the business of said partnership, and the net profits and the name and address of each member of said partnership, and their respective interest in the net profit thus reported.

Partnership profits to be included in returns made by individual partners.

Art. 13. The net annual profits of a partnership when divided and paid to the members thereof shall be included by each individual partner receiving same in his annual return of net income, and the tax shall be paid thereon as required by law. When the annual profits of a partnership are not distributed and paid to the members thereof the respective interest of each member in said profits shall be ascertained, and the individuals entitled thereto shall include the said amount in their annual return as a part of their gross income, the same as if said profits had been distributed and paid to them.

Individual partnership profits.

Art. 14. Undivided annual net profits of partnerships thus returned by the individual members thereof, and tax paid thereon, shall not, when said profits are actually distributed and paid to such members, be again included in their annual return as a part of their gross income.

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Partnerships owning interest coupons or registered interest orders may claim deduction for legitimate expenses incurred in business by filing the proper certificate with the withholding agent. (See article 47.)

Partnerships, as such, may file certificate claiming deduction.

RETURNS.

Art. 15. Each person of lawful age whose net income is $3,000 or over shall, on or before the 1st day of March, 1914, and on or before the 1st day of March each year thereafter, file an accurate return of income under oath or affirmation, except as herein provided. (See article 8.)

When returns of annual net income of $3,000 or over are to be made.

If the person making the return of income has his place of business in the collection district in which he resides, the return shall be filed with the collector of that district. If his principal place of business is elsewhere, the return shall be filed in the district in which that business is located.

Where filed.

In the case of an individual residing in a foreign country return shall be made to the collector of internal revenue for the district where his principal business is carried on within the United States.

Art. 16. The required return will be made on Form 1040 in accordance with the instructions printed thereon, and will specifically set forth—

Form of return.

1. All income received from each specific source and the total thereof.

2. All the separate items of deduction claimed under paragraph B of this law.

3. The amount of specific exemption claimed under paragraph C.

4. All amounts of income upon which tax has been withheld at source by withholding agent or agents.

Art. 17. When by reason of minority, insanity, absence, sickness, or other disability, the individual is unable to make his own return, the same shall be made by his guardian or duly authorized agent.

When return will be made by guardian or duly authorized agent.

In the case of the death of a person whose net income for the part of the year during which he lived was $3,000 or over, return of net income shall be made by the executor or administrator of the estate of the deceased, and in computing the taxable income of such estate there shall be allowed the specific exemption provided by law.

Executor or administrator to make return in case of death.

Art. 18. When the required return has not been made by a person acting as guardian, agent of a nonresident alien, or by one acting in any other capacity in which

Notice of failure to file return to be served on guardian or agent.

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the law makes it a duty for him to represent the individual, notice of failure to make such return will be served upon such guardian or agent.

Evidence may be filed showing nonliability to make return.

The person upon whom such notice is served may, however, when the facts warrant, file evidence with the collector showing that the individual for whom he acts did not receive an income subject to tax during the year, or that the said guardian or agent had filed the return with some other collector.

Returns not required of persons for whom full returns have been made by others.

Art. 19. Any individual whose net income is less than $20,000, for whom full return has been made by others as withholding agents, shall not be required to make a return.

Returns to be prepared by collector in certain cases.

Art. 20. If any person liable to pay an income tax for himself or others shall fail to make and deliver the return required by law, but shall consent to disclose the particulars of any business or occupation liable to pay such tax, it shall be the duty of the collector or deputy collector to make such list or return, which being distinctly read and consented to, signed, and verified by oath or affirmation by the person liable to make such return, the same may be received as the list or return of such person.

Refusal or neglect to make return.

Art. 21. In case any person liable to make return shall neglect or refuse to make or render a list or return, or shall render a willfully false or fraudulent return, it shall be the duty of the collector, after due notice has been given, to make such list, according to the best information he can obtain by the examination of such person, or any other evidence.[1]

Penalty for failure to make return or for making false return.

When duly certified by the collector, the said list thus prepared shall be the return of said person and the tax so ascertained to be due, together with the 50 per cent or 100 per cent penalty incurred, shall be assessed and collected.

Returns to be verified by oath or affirmation.

Art. 22. The annual return must be verified by oath or affirmation of the person making the same. Collectors are directed by law to require every return to be so verified by the person rendering it. The affidavit may be made before the collector for the district or before any officer authorized by law to administer oaths.

[1] For method of procedure in such cases, see sects. 3173 and 3176, Rev. Stat., and also Form 1045, the form of notice to be given in such cases.

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Extension of time to file return may be granted.

Art. 23. When the return is not filed within the required time by reason of sickness or absence of the individual, an extension of time, not exceeding 30 days from March 1, within which to file such return may be granted by the collector, provided a written application therefor is made by the individual within the period for which such extension is desired.

Returns to be forwarded to Commissioner of Internal Revenue by registered mail.

Art. 24. The annual returns will be forwarded by collectors by registered mail to the Commissioner of Internal Revenue with the list for the month in which the returns are filed. Collectors must provide that said returns and all forms relating thereto are securely sealed in envelopes or packages before forwarding the same.

Assessments; notification of; when to be paid.

Art. 25. All assessments shall be made by the Commissioner of Internal Revenue, and all persons shall be notified of the amount for which they are respectively liable on or before the 1st day of June of each successive year, and said assessments shall be paid on or before the 30th day of June, except in cases of refusal or neglect to make such return and in cases of false or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained, as provided by the law, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such person or persons immediately upon notification of the amount of such assessment.

Penalty for failure to pay tax.

To any sum or sums due and unpaid after the 30th day of June in any year, and for 10 days after notice and demand thereof by the collector, there shall be added the sum of 5 per cent on the amount of tax unpaid, and interest at the rate of 1 per cent per month upon said tax from the time the same became due, except from the estates of insane, deceased, or insolvent persons.

Penalties for failure to make returns.

Art. 26. If any person, corporation, joint-stock company, association, or insurance company liable to make returns or pay tax shall refuse or neglect to make returns at the time or times specified in each year, such person shall be liable to a penalty of not less than $20 nor more than $1,000.

Penalties for making false or fraudulent returns.

Any person or any officer of any corporation required by law to make, render, sign, or verify any return who makes any false or fraudulent return or statement with

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intent to defeat or evade the assessment required by law to be made shall be guilty of a misdemeanor, and shall be fined not exceeding $2,000 or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

Art. 27. Nothing in the law or these regulations shall be construed to release a taxable person from liability for income tax, nor shall any contract entered into after the act of October 3, 1913, took effect be valid in regard to any Federal income tax imposed upon a person liable to such payment.

Art. 28. For regulations relative to the claiming of exemptions and deductions on income, the tax on which is to be deducted and withheld at the source, see article 33.

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PART 2.

COLLECTIONS AT THE SOURCE.

Collections at source applies only to the normal tax imposed upon individuals. Collection at source not operative until Nov. 1, 1913.

Art. 29. The deductions and payment of the tax at the source of income applies only to the normal tax imposed upon individuals and shall not be construed to require any of such tax to be withheld prior to the 1st day of November, 1913.

Persons, firms, etc., required to withhold tax at the source.

Art. 30. Paragraph E of section 2 of the act provides that—

All persons, firms, copartnerships, companies, corporations, joint-stock companies or associations, and insurance companies, in whatever capacity acting, including lessees or mortgagors of real or personal property, trustees acting in any trust capacity, executors, administrators, agents, receivers, conservators, employers, and all officers and employees of the United States having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual gains, profits, and income of another person, exceeding $3,000 for any taxable year, other than dividends on capital stock, or from the net earnings of corporations and joint-stock companies or associations subject to like tax, who are required to make and render a return in behalf of another, as provided herein, to the collector of his, her, or its district, are hereby authorized and required to deduct and withhold from such annual gains, profits, and income such sum as will be sufficient to pay the normal tax imposed thereon by this section, and shall pay to the officer of the United States Government authorized to receive the same; and they are each hereby made personally liable for such tax.

Withholding agents.

Art. 31. All persons, firms, etc., mentioned in the above-quoted paragraph are referred to in these regulations as "debtors" or "withholding agents," and the word "source" is to apply to the place where the income originated and is payable.

Income as to which tax is to be withheld.

Art. 32. The **income** from which the normal tax of 1 per cent is to be **withheld** by withholding agents includes all items of income exceeding in the aggregate $3,000 and payable to any one person during the year, except:

(*a*) Dividends on capital stock or from the net earnings of corporations and joint-stock companies or associations and insurance companies subject to like tax.

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(*b*) Income of an individual which is not fixed or certain and not payable at stated periods, or is indefinite or irregular as to amount or time of accrual, shall not be withheld at the source, but *shall be listed in the annual return of the individual*, and the tax shall be paid thereon by him.

Incomes derived from the following professions and vocations come under this head: Agents compensated on the commission basis, lawyers, doctors, authors, inventors, and other professional persons whose income is irregular and indefinite.

Such persons shall make personal return of all their income, provided their total net income from all sources is $3,000 or over. For example: When a lawyer receives a retainer of $5,000 as a special fee, a deduction therefrom shall not be made by the payer; but when a lawyer receives a retainer of $5,000 per annum, and the exemption claimed is $3,000, $2,000 of such income would be taxed and the tax retained at the source; or if his exemption claimed should be $4,000, $1,000 of such income would be taxed and the tax thereon withheld at the source.

Special fees and annual retainers.

(*c*) Items listed in article 5, which are wholly exempt from tax.

Exemptions under paragraph C. Certificate to be filed with withholding agent.

Art. 33. (*a*) In all cases where the income tax of a person is withheld and deducted and paid or to be paid at the source, such person shall *not* receive the benefit of the deduction and exemption allowed in paragraph C (see arts. 9 and 10) except by an application to the collector for refund of the tax *unless* he shall, *not less than 30 days prior to the day on which the return of his income is due*, file with the person who is required to withhold and pay tax for him, a certificate claiming the benefit of such exemption, and thereupon no tax shall be withheld upon the amount of such exemption. If any person for the purpose of obtaining any allowance or reduction by virtue of a claim for such exemption, either for himself or for any other person, knowingly makes any false statement or false or fraudulent representation, he shall be liable to a penalty of $300.

Penalty for making false representations to obtain exemption.

Deductions under paragraph B. Form 1008 to be filed with withholding agent or collector.

(*b*) Nor shall any person under the foregoing conditions be allowed the benefit of any deduction provided for in subsection B (see art. 6, 1 to 6) unless he shall, not less than 30 days prior to the day on which the return of his income is due, either file with the person who is re-

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quired to withhold and pay tax for him a true and correct return (on Form 1008) of his annual gains, profits, and income from all other sources, and also the deductions asked for, and the showing thus made shall then become a part of the return to be made in his behalf by the person required to withhold and pay the tax and the debtor or withholding agent will only withhold the tax on the payments made in excess of the deductions claimed on said form. Or such person may likewise make application for deductions to the collector of the district in which return is made or to be made for him.

Certificate filed on behalf of minors or insane persons.

If such person is a minor or an insane person, or is absent from the United States, or is unable owing to serious illness to make the return and application above provided for, the return and application may be made for him or her by the person required to withhold and pay the tax, he making oath on certificate (Form 1009) under the penalties of this act that he has sufficient knowledge of the affairs and property of his beneficiary to enable him to make a full and complete return for him or her, and that the return and application made by him are full and complete.

Claims for refund.

(*c*) When, however, claims for exemption and deductions as above described are not filed within the prescribed time, the tax collected in excess can be remitted only on presentation of a claim for refund under the provisions of section 3220, Revised Statutes, said claims to be made either by the withholding agent against whom the assessment was made, or by the person on account of whom such taxes were withheld.

Claims for abatement.

Claims for abatement of taxes erroneously assessed, or which are excessive in amount, may, prior to collection thereof, be filed under the provisions of said section 3220, Revised Statutes, either by the withholding agent against whom the assessment was made, or by the persons on account of whom such taxes were withheld.

Taxes withheld not to be forwarded to collector until notices of assessment have been received.

In the monthly list returns as now prescribed a space is provided to show the amount of taxes which the withholding agent may remit to the collector when such returns are filed. The withholding agents will not, however, forward to the collector amounts withheld by him until notices of assessment are received from the collector.

Claims for *exemption* and *deductions* may be filed with the withholding agent and claims for *deductions* may be

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filed with the collector, *not later than 30 days prior to March 1.*

Withholding agents to be furnished statement of deductions claimed through collector.

In cases where claims for deductions are filed with the collector within the time prescribed, the collector will immediately furnish the withholding agent (whose name and address must be shown on Form 1008) with a statement of the amount of deductions claimed, and said withholding agent shall not withhold and pay the normal tax to the extent of the deductions claimed as per said list.

Withholding agents should not file their annual returns until after the expiration of the time allowed persons to file claims for exemptions and deductions and if claims for deductions are filed with the collector in the required time, yet not in sufficient time to have the adjustment made by the withholding agent, the collector will make the adjustment on the withholding agent's return and in reporting such withholding agent for assessment will make allowance for the amount of such deductions claimed. Notice of such adjustment, however, must be furnished the withholding agent.

Tax withheld to be paid to collector of district.

Art. 34. The normal tax of 1 per cent shall be deducted and withheld *at the source*, and payment made to the collector of internal revenue as provided in the law, by the debtor, or his, her, or its duly appointed agent authorized to make such deduction and payment.

Tax withheld by one agent not to be again withheld by another agent.

No other person, firm, or organization, in whatever capacity acting, having the receipt, custody, or disposal of any income, as herein provided, shall be required to again deduct and withhold the normal tax of 1 per cent thereon, provided that any such person, firm, or organization other than the debtor who has withheld said tax, shall file with the collector of internal revenue for his, her, or its district, a certificate (Form 1006) showing from whom and in what amount the tax has been so withheld.

Returns to be made to collector of internal revenue.

Art. 35. Withholding agents who are required to make monthly returns will, on or before the 20th day of each month, file with the collector for their respective districts such *returns* for the preceding month, accompanied by all certificates relating thereto, and there shall also accompany said returns all certificates claiming exemptions and deductions which are not required to be listed thereon; and on or before the 1st day of March in each year said withholding agents shall likewise file their *annual returns* for the preceding calendar year. Annual

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returns (Forms 1041 and 1042) must be accompanied by all certificates claiming exemptions and deductions relating thereto.

Art. 36. For regulations as to assessment and collection of taxes from withholding agents, see article 25 and "Assessments and collections," Part 4.

A.

Income derived from interest upon bonds and mortgages or deeds of trust or other similar obligations of corporations, etc.

Tax on income derived from interest on bonds, etc., to be deducted.

Art. 37. Under the law a tax of 1 per cent, designated as the normal tax, shall be deducted at "the source," beginning November 1, 1913, from all income accruing and payable to any person subject to such tax which may be derived from interest upon bonds and mortgages, or deeds of trust, or other similar obligations, including equipment trust agreements and receivers' certificates of corporations, joint-stock companies or associations, and insurance companies, although such interest does not amount to $3,000.

Interest on State and Government obligations exempt.

Income derived from the interest upon the obligations of a State, county, city, or any other political subdivision thereof, and upon the obligations of the United States or its possessions, is not subject to the income tax, and certificates of ownership in connection with coupons or registered interest orders for such interest will not be required.

Term "debtor" to apply to all corporations, etc., and to duly appointed withholding and paying agents.

Art. 38. The term "debtor," as hereinafter used, shall apply to all corporations, joint-stock companies or associations, and insurance companies; and such "debtor" may appoint withholding and paying agents to act for it in matters pertaining to the collection of this tax, upon filing with the collector of internal revenue for the district a proper notice of the appointment of such agent or agents. Where such withholding agent is so authorized by the debtor corporation, he may file with the collector of his district the required returns and accompanying certificates (arts. 50 and 51), in which case the assessment of the tax withheld by him will be made in that district. Unless such authority is given, such reports, etc., will be furnished by the debtor corporation to the collector of its district (i. e., the district in which its principal financial

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or business office is located), where, in such case, assessment will be made.

Tax to be deducted and withheld by debtor corporation.

Art. 39. For the purpose of collecting the tax on all coupons and registered interest originating or payable in the United States, the source shall be the debtor (or its withholding and paying agent in the United States), who shall deduct the tax when same is to be withheld, and no other bank, trust company, banking firm, or individual taking coupons or interest orders for collection, or otherwise, shall withhold the tax thereon, where such coupons or orders for registered interest are accompanied by certificates of ownership signed by the owners of the bonds upon which the interest matured. These certificates shall be made on the prescribed forms and shall be made out by each owner of bonds for the coupons or interest orders for each separate issue of bonds or obligations of each debtor. (See Arts. 43 and 46.)

Banks and individuals taking interest coupons for collection.

Certificates of ownership to accompany interest coupons for collection.

Substitute certificates, when permitted.

Art. 40. Responsible banks, bankers, and collecting agents receiving coupons for collection with the aforesaid certificates of ownership attached, may present the coupons with the attached certificates to the debtor or withholding agent for collection, or such certificates may be detached and forwarded direct to the Commissioner of Internal Revenue, provided such bank, banker, or collecting agent shall substitute for such certificates its own certificate, and shall keep a complete record of each transaction, showing—

Record to be kept by collecting agent.

1. Serial number of item received.
2. Date received.
3. Name and address of person from whom received.
4. Name of debtor corporation.
5. Class of bonds from which coupons were cut.
6. Face amount of coupons.
7. Exemptions from tax claimed by owner under paragraph C.

For the purpose of identification, such substitute certificates should be numbered consecutively, and corresponding numbers given the original certificates of ownership.

Privilege of substituting certificates extended to foreign countries.

The permission here granted will extend to responsible banks, bankers, and collecting agents in foreign countries, through whom collection of such interest coupons is made.

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The various substitute certificates hereby authorized will correspond with the form numbers of the ownership certificates detached by the collecting agent, except that the substitute certificates' form numbers will be followed by the letter "a."

Normal tax to be deducted before payment of interest.

Art. 41. A debtor whose bonds may be registered, both as to principal and interest, shall deduct the normal tax of 1 per cent from the accruing interest on all bonds before sending out checks for said interest to registered owners or before paying such interest upon interest orders signed by the registered holders of said bonds unless there shall be filed with said debtor or its fiscal agent (not later than 30 days prior to March 1), through whom said interest is customarily paid, the proper certificates claiming exemption from liability for said tax as herein provided, executed—

Claims for exemption from tax, by whom same may be filed.

By a citizen or resident of the United States, the bona fide owner of the registered obligations, who may claim exemption under paragraph C, section 2, of the income tax law, or

By corporations, joint-stock companies, associations, or insurance companies organized in the United States, or organizations, associations, fraternities, etc., which are either taxable or exempt from taxation, as provided in paragraph G, subdivision (a), of the act, or

By a bona fide resident and citizen of a foreign country, claiming exemption as such.

Certificates of ownership to specify bonds and amount of interest due.

Art. 42. If the owners of the bonds are individuals who are citizens or residents of the United States, the aforesaid certificates shall accompany the coupons, or, with respect to the interest on registered bonds, shall be filed with payer of said interest, and such certificates shall describe the bonds and show the amount of coupons attached or the amount of interest due such owners on registered bonds and the name and address of the owners, and if registered in names other than the owners such names with addresses shall also be given. Such certificates shall also show whether the claimants do or do not then claim exemption from taxation at the source, under paragraph C, articles 9 and 10 ($3,000, and under certain conditions $4,000), as to the income represented by such coupons or interest. The certificates will be prepared on Form 1000 and must show the amount, if any, of exemption claimed, the total amount of exemption to which the claimant is entitled and must be signed

Claim for exemption under paragraph C.

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by the claimants, who shall use their ordinary business signatures. The certificates shall also show the post-office and street address of the claimants, the internal-revenue district, and the date when signed.

Certificates may be signed by duly authorized agents, etc.

Art. 43. Duly authorized agents may sign such certificates for the persons for whom they act, and withholding agents, banks, or others, with whom such certificates are filed, if satisfied as to the identity and responsibility of the persons so signing, shall stamp or write on the face of each such certificate "Satisfied as to identity and responsibility of agent," giving name and address of person thus certifying. Certificates so verified may be accepted by all other persons, firms, or organizations to whom presented, without question as to authority of such agent. If the person, firm, or organization first receiving such certificate is not satisfied as to the agent's identity and responsibility, then, in that event, the agent shall furnish evidence of his authority to so act, which will be retained by the person, firm, or organization receiving it, and the certificate of ownership shall be indorsed as above provided.

Certificates to be verified by withholding agents.

Tax to be deducted before payment of interest.

Art. 44. Whenever interest coupons, accompanied by a certificate of an individual who is a citizen or resident of the United States, are presented to a debtor or its withholding agent for payment, or whenever interest is payable to such individual on a bond registered as to both principal and interest, the debtor or its withholding agents shall deduct and withhold the amount of the normal tax, except to the extent that exemption is claimed in the certificate of ownership (Form 1000).

Where the interest to be paid is registered, the same form of certificate shall be used where exemptions are claimed, and it shall be filed with the debtor at least five days before the due date of such interest.

Tax on interest payable to certain corporations, etc., not to be deducted.

Art. 45. If the owners of the bonds are corporations, joint-stock companies, associations, or insurance companies organized in the United States, no matter how created or organized, or organizations, associations, fraternities, etc., which are either taxable or exempt from taxation as provided in paragraph G, subdivision (a) of the act, the debtor is not required to withhold or deduct the tax upon income derived from interest on such bonds, provided coupons or orders for interest from such bonds shall be accompanied by a certificate of the owners thereof certifying to such ownership, which certificates

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shall be filed with the debtor when such coupons or interest orders are presented for payment.

Certificates of corporations claiming exemption.

Such certificate will be made on Form 1001, and must be signed in the name of the organization (stating its place of business) by the persident, secretary, or some other principal officer of the said corporation or organization duly authorized to sign same, and must be properly dated.

Certificates of nonresident aliens.

Art. 46. Coupons, or orders for registered interest, payable in the United States, representing the interest on bonds owned by nonresident aliens, must be accompanied by the prescribed certificate (Form 1004), but this certificate may be signed either by the owner or, in behalf of the owner, by a reputable bank or bankers or other responsible collecting agency, certifying to the ownership of the bonds and giving the name and address of the bona fide nonresident and alien owners, and when such certificate is thus attached the normal tax of 1 per cent on such coupons or interest orders need not be withheld at the source by the debtor or collecting agency. Unless such proof of foreign ownership is furnished, the normal tax of 1 per cent should be deducted.

Foreign organizations engaged in business within the United States are subject to the normal tax of 1 per cent per annum upon the amount of net income accruing from business transacted and capital invested within the United States; but said organizations shall be exempt from having any part of their income withheld by a debtor or withholding agent, and claim for such exemption will be made on Form 1018.

Certificates filed by partnership, showing interest of individual in partnership profits, etc.

Art. 47. Inasmuch as individual members of a partnership are liable for income tax upon their respective interest in the net earnings of such partnership, the partnership may file with the withholding agent a notice signed in the name of the partnership, by a member thereof, claiming a deduction of a specific amount on account of the legitimate expense incurred in conducting the business of said partnership; and upon receipt of said notice said withholding agent shall not withhold, and shall not be held liable for, the normal tax on the amount of income equal to the amount of deduction claimed in said notice; but in no event shall the total of the amounts claimed, as provided herein, be in excess of the total amount of the actual legitimate annual expenses incurred by said partnership in the conduct of its busi-

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ness. Application for such deduction shall be made on Form 1011.

Foreign partnerships, certificate of ownership may be filed by.

Art. 48. Foreign partnerships or firms, all the members of which are both citizens, or subjects, and residents of a foreign country, which are the owners of bonds and mortgages or deeds of trust or other similar obligations, including equipment trust agreements, receivers' certificates, and stocks of corporations, joint-stock companies or associations and insurance companies, organized or doing business in the United States, may file with the debtor or withholding agent, with their coupons or orders for registered interest, or orders for other income derived from property or investments in the United States, a certificate and notice of ownership (Form 1016) setting forth the above facts; and the debtor or withholding agent shall not withhold any part of said income.

Foreign partnership, composed of nonresident foreigners and citizens of United States.

Art. 49. Where a foreign partnership or firm is composed of both nonresident foreigners and citizens of the United States, or foreigners residing in the United States or its possessions, the certificate of ownership shall show this fact, and the name and legal address of each member of said partnership who is a citizen of the United States, or who is a foreigner residing in the United States or its possessions, shall be given on the back of said certificate, and no part of said income shall be withheld. The said certificate and notice of ownership in either case above provided shall be on Form 1014.

Monthly list return.

Art. 50. Withholding agents are required to file in duplicate a monthly list return (Form 1012) giving a list of all coupon or interest payments made on which the normal tax of 1 per cent was deducted and withheld from interest payments made upon bonds or other similar obligations, and shall show the name and address in full of the owners of the bonds, amount of the income, amount of exemption claimed, amount of income on which withholding agent is liable for tax, and the amount of tax withheld.

Forms 1012a, 1012b, and 1012c are to be used where Form 1012 does not afford sufficient space in which to enter all items.

Summary of monthly lists may be used.

Form 1012d, when necessary to be used, shall be made in duplicate and shall be a summary of the monthly list return, Form 1012, as made in detail by the withholding agent, and the said summary and lists thereto attached when properly filled in and the summary signed and

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sworn to shall constitute the complete monthly list return of the withholding agent making same as fully as if each list attached to the summary was signed and sworn to separately.

An annual list return (Form 1013) in duplicate is also required to be made by debtors or withholding agents of the normal tax of 1 per cent withheld from interest payments made upon bonds or other similar obligations, and it shall be filed on or before March 1 of each calendar year.

Monthly list to constitute a part of the annual list return.

Art. 51. The monthly list return in the form as required herein shall constitute a part of the annual list return to be made by debtors or withholding agents, and the debtor or withholding agent will not be required, in making an annual list return of the tax withheld from income derived from interest upon bonds and mortgages or deeds of trust, or other similar obligations of corporations, joint-stock companies, or associations and insurance companies, to again make an itemized list of the amount of tax withheld from each person, but will give in the annual list return the totals of the monthly list return for each month of the year for which annual list return is made.

All substitute certificates of collecting agents, authorized by regulations, that are received by debtors or withholding agents will be considered the same as certificates of owners, and in entering same in making monthly list returns debtors or withholding agents will enter the name and address of the collecting agent and the number of the substitute certificate issued in lieu of the original certificate containing the name and address of the owner of the bonds. Until the further ruling on this subject by this department no list return is required to be made of certificates of ownership accompanying coupons or registered interest orders filed with a debtor or withholding agent *when the owners of the bonds are not subject to having the normal tax withheld at the source,* but all such certificates of ownership shall be forwarded by the debtor or withholding agent to the collector of internal revenue for the district, on or before the 20th day of the month succeeding that in which said certificates of ownership were received.

Certificates to be forwarded to collector.

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B.

Income derived from interest upon bonds, mortgages, etc., paid by first bank or collecting agency when certificates of owners are not filed.

Interest coupons or orders, not accompanied by certificate.

Art. 52. Where the coupons or interest orders are not accompanied by certificates as heretofore prescribed, the first bank, trust company, banking firm, or individual, or collecting agency receiving the coupons or interest orders for collection, or otherwise, shall deduct and withhold the tax and shall attach to such coupons or interest orders its own certificate (Form 1002), giving the name and address of the owner of, or the person presenting such coupons or interest orders if the owner is not known, with a description of the coupons or interest orders; also setting forth the fact that they are withholding the tax upon them; whereupon the debtor shall not again withhold the tax on said coupons or interest orders, but in lieu thereof shall deliver to the Collector of Internal Revenue the certificate of such bank, trust company, etc., which is withholding such tax money.

Identity of persons presenting interest coupons to be established.

Any corporation, collecting agency, or person first receiving from the owner any interest coupons or orders for the collection of registered interest should require the persons tendering such coupons or orders for registered interest to satisfactorily establish their identity.

Monthly and annual list returns.

Art. 53. Withholding agents receiving coupons or interest orders not accompanied by certificates of owners are required to file monthly and annual list returns in duplicate.

The required monthly list return (Form 1044) shall give a list of all coupon or interest payments made on which the normal tax of 1 per cent was deducted and withheld and shall show the name and address in full of the owner of, or the person presenting such coupons or interest orders, if the owner is not known, amount of the income subject to tax and the amount of tax withheld.

An annual list return (Form 1044a) is also required to be made by such withholding agents, showing the amount of tax withheld during the preceding year on income of this character. This return must be filed on or before the 1st day of March of each calendar year.

The monthly list returns in the form as required herein shall constitute a part of the annual list return to be made, and the withholding agent will not be required, in making

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an annual list return of the tax thus withheld, to again make an itemized list of the amount of tax withheld from each person, but will give in the annual list return the totals of the monthly list returns for the year for which annual list return is made.

C.

Income derived from coupons, checks or bills of exchange on foreign bonds, mortgages, dividends, etc.

Collection of coupons, checks, bills of exchange, etc.

Art. 54. All persons, firms, or corporations undertaking for accommodation or profit (this includes handling either by way of purchase or collection) the collection of coupons, checks, bills of exchange, etc., for or in payment of interest upon bonds issued in foreign countries, and upon foreign mortgages or like obligations, and for any dividends upon stock or interest upon obligations of foreign corporations, associations, or insurance companies engaged in business in foreign countries, are required by law to obtain a license from the Commissioner of Internal Revenue.

License to be obtained from Commissioner of Internal Revenue.

Application for license to be made to collector of district.

Art. 55. Applications for such license (Form 1017) will be made to the collector for the district in which such business is to be carried on. Upon the acceptance of such application the collector will issue to the applicant without cost a license (Form 1010) which will continue in force until revoked or canceled. Blank forms of such license, bearing the fac simile signature of the Commissioner of Internal Revenue, will be furnished collectors on requisition, who will in all cases countersign the same before issuing it to applicant. Failure to obtain a license or to comply with regulations is punishable by a fine not exceeding $5,000 or imprisonment not exceeding one year, or both, in the discretion of the court.

Penalty for failure to obtain license.

Bond may be required in certain cases.

Art. 56. Where the collector is not sufficiently informed as to the entire responsibility of the applicant, or where in any case he deems it advisable, the Commissioner of Internal Revenue may upon the recommendation of the collector require of the applicant a bond, in duplicate, with satisfactory sureties, in a penal sum at least equal to the estimated amount of tax to be withheld by such applicant during any one year. A form of bond to be given in such cases will be furnished collectors on application for the same. Where licenses are issued without bond, the collector will each year inquire into and satisfy himself of the financial responsibility of the licensee.

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License to be obtained for branch offices.

Art. 57. When any person, firm, or corporation shall have branch offices and desire to collect foreign interest or dividend income through said branch offices, the application for license or licenses shall be made by the person, firm, or corporation through its principal office for its branch office or offices. Application for licenses in such cases shall be made to the collector of internal revenue for the district in which the home office is located. The names and addresses of the branch offices shall be furnished to the collector in the application of the said principal, and if the requirements of the foregoing regulations have been complied with to the satisfaction of the collector, he shall certify this fact to the collector of internal revenue for the district in which the branch office is located, and the collector to whom this certification is made shall issue to such branch office a license, as in the case provided in article 55.

Application for license to be certified to collector of district in which branch offices are located.

Normal tax on interest collected to be withheld by agent.

Art. 58. The licensed person, firm, or corporation first receiving any such foreign items for collection or otherwise, shall withhold therefrom the normal tax of 1 per cent, and will be held responsible therefor. Such licensee shall indorse or stamp on each such coupon, check, or bill of exchange, when practicable, the words "Income tax withheld by" (giving his or their name, address, and date), which shall be sufficient evidence to relieve subsequent holders or purchasers from the duty of also withholding the income tax.

Statement as to tax withheld to be indorsed or appended to coupons, checks, etc.

If the size or nature of such coupons, checks, etc., makes it impracticable to make said indorsement thereon, a statement identifying the item on which tax is withheld and bearing said indorsement may be attached thereto with the same effect as if the indorsement was made directly thereon.

Licensee to furnish collector of district with list of taxes deducted, etc.

Art. 59. Such licensee shall obtain the names and addresses of the persons from whom such items are received and shall prepare a list of same in duplicate (on Form 1043) and file it with the collector of internal revenue for his district not later than the 20th day of the month next succeeding the month in which such items were paid. The list shall be dated, and shall contain the names and addresses of the taxable persons, the character and amount of income, amount of exemption claimed, amount of income on which withholding agent is liable for tax, and the amount of tax withheld. In addition to the monthly lists the licensee will, on or

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before the 1st day of March in each year, file with the collector in duplicate a return (Form 1043a), showing the amount of income paid and the amount of tax withheld by him during the preceding year and such other information as the form prescribes.

The monthly list return in the form as required herein shall constitute a part of the annual list return to be made by the licensee as withholding agent, and he will not be required, in making an annual list return of the tax withheld from income described in article 54, to again make an itemized list of the amount of tax withheld from each person, but will give in the annual list return the totals of the monthly list return for each month of the year for which annual list return is made.

Claims for exemption under paragraph C may be filed.

Art. 60. In the event such coupons, checks, or bills of exchange above mentioned are presented for collection by an individual claiming the benefit of the exemptions allowable under paragraph C (arts. 9 and 10), such individual shall be permitted to avail himself of the exemption claimed, upon signing on the form heretofore prescribed for coupons payable in the United States, and no tax shall be deducted for the amount of the exemption so claimed; or if such items are presented by corporations, joint-stock companies, or associations and insurance companies, organized in the United States, the form of certificate heretofore prescribed for such organizations shall be used, and in such instances no tax shall be deducted.

Organizations exempt from having tax withheld at the source.

Certificates of exemption to be forwarded with monthly list returns to collector.

Art. 61. In both instances the licensee first receiving such items shall retain such certificates for delivery with the lists aforesaid, and with respect to said coupons, checks, or bills of exchange, said licensee shall attach thereto (identifying the items) or indorse or stamp thereon the words "Income tax exemption claimed through" (giving name and address of licensee), which shall be sufficient evidence to relieve subsequent holders or purchasers from the duty of also withholding the tax thereon.

The provisions for collection of the tax on foreign obligations herein set forth includes the interest upon all foreign bonds, even though the coupons may, at the option of the holder, be payable in the United States as well as in some foreign country.

Licensee to keep records.

Art. 62. All persons licensed shall keep their records in such manner as to show from whom every such item has been received, and such records shall be open at all times to the inspection of internal-revenue officers.

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D.

Income derived from wages, rent, interest, or other fixed and determinable gains, profits, and income.

Wages, salaries, rents, etc.

Art. 63. The above title includes all income derived from salaries, wages, rents, royalties, interest, taxable annuities, emoluments, or other fixed and determinable annual gains, profits, and income of another person. ("Income derived from interest upon bonds and mortgages, or deeds of trust, or other similar obligations of corporations, etc.," and "Income derived from coupons, checks, or bills of exchange on foreign bonds, mortgages, dividends, etc.," which have been covered by regulations under such titles, are not to be included here.)

Withholding agents to deduct and pay tax.

Art. 64. Copartnerships, companies, corporations, joint-stock companies or associations, insurance companies, in whatever capacity acting, including lessees, mortgagors of real or personal property, trustees acting in any trust capacity, executors, administrators, agents, receivers, conservators, employers and all officers and employees of the United States, hereinafter referred to as "debtors" or withholding agents, having the control, receipt, custody, disposal, or payment of income as described in article 63, shall deduct and withhold from such annual gains, profit, and income, when the same shall have reached an aggregate amount in excess of $3,000, such sum as will be sufficient to pay the normal tax of 1 per cent imposed by law, and shall pay the taxes so withheld to the collector of internal revenue for the district in which the said withholding agent resides or has his, her, or its principal place of business.

Tax to be withheld on periodical payments when they aggregate $3,000.

Art. 65. A withholding agent who pays monthly, or periodically during the year, interest, rents, salaries, wages, etc., shall not withhold the said tax until such time as the interest, rents, salaries, wages, etc., shall have reached an aggregate amount in excess of $3,000. When such amount has been reached, such agent shall withhold the tax on the whole $3,000 and any excess thereof, unless the person to whom the income is due files a notice claiming exemption under paragraph C (as provided in art. 33(a)), in which case the withholding agent shall withhold only the tax on the income in excess of said exemption of $3,000 or $4,000 (as the case may be), and the tax so withheld shall be paid as required by law.

Exemption under paragraph C may be claimed.

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Deductions under paragraph B may be claimed.

Art. 66. In case the person to whom the income is due is entitled to any deductions under paragraph B, he may avail himself of such deductions by filing with the withholding agent Form 1008, as provided in article 33(b), in which case the withholding agent will only withhold the tax on such income in excess of the deductions claimed on said form.

Tax not to be withheld by banks on interest paid on deposits.

Art. 67. Banks, bankers, trust companies, and other banking institutions receiving deposits of money, are not required to withhold at the source the normal income tax of 1 per cent on interest paid, or accrued, or accruing to depositors, whether on open accounts or on certificates of deposit; but all such interest, whether paid or accrued and unpaid, must be included in the annual income return of the person entitled to receive such interest, whether on open account or on the certificate of deposit.

Tax to be withheld on payment of interest notes, or notes given for rent.

Art. 68. When a note shall have been given in payment of interest, rents, or other income accruing after March 1, 1913, the maker of the note, as the "debtor" and as the "source" where the income originates, is required, in paying such note, to withhold the normal tax of 1 per cent on the entire amount of the note, if in excess of $3,000, unless claim for exemption or deductions under article 33(a) or 33(b) is filed, in which case the said tax shall be withheld only on the amount of said note in excess of the exemption or deductions so claimed.

Purchasers of interest notes as to which tax has not been withheld.

If any person who has purchased or discounted any such notes omitted, in acquiring them from previous holder, to make a deduction or allowance for said tax, he can look for relief only to the person from whom the notes were obtained, as the "debtor," the maker of said notes, is required to deduct, withhold, and pay to the collector of internal revenue the amount of the normal tax of 1 per cent which may be due thereon.

Annual list return by withholding agents.

Art. 69. Withholding agents shall make an annual list return (Form 1042), in duplicate, to the collector of internal revenue for the district in which the withholding agent resides or has his principal place of business on or before the 1st day of March in each year, showing the names and addresses of persons who have received incomes in excess of $3,000, on which the normal tax of 1 per cent has been deducted and withheld during the preceding year. This return must be accompanied by all forms presented claiming exemptions and deductions.

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E.

Fiduciaries.

Guardians, etc., as fiduciary agents, to deduct tax.

Art. 70. Guardians, trustees, executors, administrators, agents, receivers, conservators, and all persons, corporations, or associations acting in any fiduciary capacity hereinafter referred to as fiduciary agents, who hold in trust an estate of another person or persons, shall be designated the "source" for the purpose of collecting the income tax, and by filing notice with other debtors or withholding agents said fiduciary shall be exempt from having any income, due to them as such, withheld for any income tax by any other debtor or withholding agent. Other debtors or withholding agents upon receipt of such notice shall not withhold any part of such income from said fiduciary and will not in such case be held liable for normal tax of 1 per cent due thereon. The form of notice to be filed with the debtor or withholding agent by fiduciary will be on Form 1015. Where such exemption is not claimed, notice thereof on Form 1019 should be filed with the withholding agent.

Notice of deduction to be filed with other withholding agents.

Annual return to be made to the collector of the district.

Art. 71. Fiduciaries shall, on or before March 1 of each year, make and render a return of the income coming into their custody or control and management from each trust or estate when the annual interest of any beneficiary in said trust or estate is in excess of $3,000. This return (Form 1041) must be filed with the collector for the district in which the fiduciary resides or has his principal place of business, and shall contain an itemized statement of the gross income and deductions claimed.

Notice of failure to file return as required shall be served upon the fiduciary. (See art. 18.)

The entries on the first page of Form 1041 in column headed "Amount of income paid or accrued to beneficiaries" should not include their respective shares of income derived from dividends on the stock or from the net earnings of corporations, joint-stock companies, etc., subject to like tax or the income on which the normal tax of 1 per cent has been deducted and withheld at the source by the debtor or the prior withholding agent, as these two items of income are treated as deductions in determining the amount of income subject to tax for which the fiduciary as withholding agent has to account.

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When the share of any beneficiary, therefore, in the amount stated on line 3 of the first page of said return is in excess of $3,000, return must be made.

Return to include only income accruing from trust, unless otherwise authorized by beneficiary.

Art. 72. As each such fiduciary acts solely in behalf of the beneficiaries of the trust, the annual return required in such cases has reference only to the income accruing and payable through said fiduciary, and not to the income of the beneficiary derived from other sources. If, however, such fiduciary is legally authorized to act for such beneficiary as agent or attorney in fact, he may in such case also make for the beneficiary the personal annual return (Form 1040) required by law.

Annual return to include list of beneficiaries, showing tax withheld from each.

Art. 73. The annual return of the fiduciary shall contain a list of the name and full address of each beneficiary and the share of said income to which each may be entitled. There must also be entered opposite the name of each beneficiary the amount of exemption, if any, claimed by him, the amount of income on which the fiduciary is liable for tax, and the amount of tax withheld, and the said return shall be signed and sworn to by the fiduciary, if an individual, making same, and his full address must be stated. If the fiduciary is an organization, the return shall be signed and sworn to by the president, secretary, or treasurer of said organization.

Return to be made of undistributed income accruing during the year.

Art. 74. Fiduciaries having control of any portion of an annual income accruing during the year, but not distributed or paid to the beneficiaries during the year, shall, in rendering their annual return (Form 1041), give the name and address of each of said beneficiaries having a distributive interest in said income, and shall furnish all information called for in such returns. The fiduciary shall in all such cases withhold and pay to the collector, as provided by law, the normal tax of 1 per cent upon the distributive interest of each of said beneficiaries when in excess of $3,000, the same as if said income was actually distributed and paid. Exemption under paragraph C, however, may be claimed by the beneficiary or his legal representative by filing his claim for exemption with the fiduciary agent.

Claim for exemption of undistributed income. Paragraph C.

Tax withheld on undivided income not to be again withheld when income is distributed.

Art. 75. When the normal tax on undivided annual net income has been so withheld, such tax shall not be again withheld when such portion of the income is actually distributed and paid to said beneficiary.

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PART 3.

RELATING TO THE INCOME TAX IMPOSED BY SECTIONS 2 AND 4 OF THE ACT OF OCTOBER 3, 1913, ON CORPORATIONS, JOINT-STOCK COMPANIES OR ASSOCIATIONS, AND INSURANCE COMPANIES.

Organizations subject to tax.

Art. 76. Under the provisions of sections 2 and 4 of the act of October 3, 1913, every corporation, joint-stock company or association, and every insurance company organized in the United States, no matter how created or organized, except those specifically exempted, shall be subject to pay annually an income tax of 1 per centum per annum upon the entire net income arising or accruing from all sources during the preceding calendar or fiscal year, as the case may be. Certain exceptions as to taxability will be noted specifically hereinafter.

One per cent on entire net income.

Foreign corporations subject to the tax.

Art. 77. A similar tax shall be levied, assessed against, and paid annually by corporations, joint-stock companies or associations, and insurance companies organized, authorized, or existing under the laws of any foreign country upon the amount of net income accruing from business transacted and capital invested within the United States during such year.

Corporations defined.

Art. 78. "Corporation" or "corporations," as used in these regulations, shall be construed to include all corporations, joint-stock companies or associations, and all insurance companies coming within the terms of the law, and such organizations will hereinafter be referred to as "corporations."

Associations, real estate trusts, etc., subject to tax.

Art. 79. It is immaterial how such corporations are created or organized. The terms "joint-stock companies" or "associations" shall include associates, real estate trusts, or by whatever name known, which carry on or do business in an organized capacity, whether organized under and pursuant to State laws, trust agreements, declarations of trusts, or otherwise, the net income of which, if any, is distributed, or distributable, among the members or share owners on the basis of the capital stock which each holds, or, where there is no capital stock, on the basis of the proportionate share of capital which each has invested in the business or property of the organization, all of which joint-stock companies or associations shall, in their organized capacity, be subject to the tax imposed by this act.

Corporations required to make returns.

Art. 80. Every corporation not specifically enumerated as exempt shall make the return of annual net income

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required by law whether or not it may have any income liable to tax, or whether or not it shall be subordinate to or controlled by another corporation. Mutual telephone companies, mutual insurance companies, and like organizations, although local in character, and whose income consists largely from assessments, dues, and fees paid by members, do not come within the class of corporations specifically enumerated as exempt. Their status under the law is not dependent upon whether they are or are not organized for profit. Not coming within the statutory exemption, all organizations of this character will be required to make returns of annual net income, and pay any income tax thereby shown to be due. For this purpose the surplus of receipts of the year over expenses will constitute the net income upon which the tax will be assessed.

Mutual telephone and mutual insurance companies not exempt.

A railroad or other corporation which has leased its properties in consideration of a rental equivalent to a certain rate of dividends on its outstanding capital stock and the interest on the bonded indebtedness, and such rental is paid by the lessee directly to the stock and bond holders, should, nevertheless, make a return of annual net income showing the rental so paid as having been received by the corporation.

Interest deduction by corporations operating leased or purchased lines.

Art. 81. A railroad company operating leased or purchased lines shall include all receipts derived therefrom, and, if bonded indebtedness of such lines has been assumed, such operating company may deduct the interest paid thereon to an amount not exceeding one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock outstanding at the close of the year.

Lessee corporations not to include capital stock or indebtedness of lessor corporations.

Art. 82. Corporations operating leased lines should not include the capital stock of the lessor corporations in their own statement of capital stock outstanding at the close of the year. The indebtedness of such lessor corporations should not be included in the statement of the indebtedness of the lessee unless the lessee has assumed the same. Each leased or subsidiary company will make its own separate return, accounting for therein all income which it may have received by way of dividends, rentals, interest, or from any other source.

Foreign corporations having branch offices in United States to designate principal office.

Art. 83. A foreign corporation having several branch offices in the United States should designate one of such branches as its principal office and should also designate the proper officers to make the required return.

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Corporations organized during year to make returns.

Art. 84. A corporation organized during the year should render a sworn return on the prescribed form, covering that portion of the year (calendar or fiscal) during which it was engaged in business or had an income accruing to it.

Corporations going into liquidation.

Art. 85. Corporations going into liquidation during any tax period may, at the time of such liquidation, prepare a "final return" covering the income received or accrued to them during the fractional part of the year during which they were engaged in business, and immediately file the same with the collector of the district in which the corporations have their principal places of business.

Limited partnerships.

Art. 86. Limited partnerships are held to be corporations within the meaning of this act and these regulations, and in their organized capacity are subject to the income tax as corporations.

Corporations exempt from tax.

Art. 87. The act specifically enumerates and exempts from its provisions and requirements labor, agricultural, or horticultural organizations, mutual savings banks not having a capital stock represented by shares, fraternal beneficiary societies, orders, or associations operating under the lodge system, or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, or associations, and dependents of such members, domestic building and loan associations, cemetery companies organized and operated exclusively for the mutual benefit of their members, any and all corporations or associations organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of whose net income inures to the benefit of any private stockholder or individual, business leagues, chambers of commerce, or boards of trade not organized for profit, no part of the net income of which inures to the benefit of the private stockholder or individual, and civic leagues or similar organizations not organized for profit, but operated exclusively for the promotion of social welfare.

Domestic building and loan associations defined. Mutuality essential.

Domestic building and loan associations are among those enumerated as exempt from the requirements of the law. A domestic building and loan association is held to be one organized under and pursuant to the laws of the United States, or of a State or Territory thereof, or under the laws applicable to Alaska or the District of Colum-

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bia. Mutuality in operation and in the distribution of profits and benefits is essential to exemption. Therefore, in order to come within the exempted class such associations must not only be "Domestic," as defined, but they must be organized and operated exclusively for the mutual benefit of the members; that is, all the profits and benefits provided for in the articles of association and by-laws must be ratably distributed among all members regardless of the kind of stock held, according to the amount of money they have on deposit. An association issuing different classes of stock upon which different rates of interest or dividends are guaranteed or paid, does not come within the exempted class.

Corporations must establish their right to exemption.

Art. 88. All corporations and all beneficiary societies enumerated above shall by affidavit, or otherwise, at the request of the collector or Commissioner of Internal Revenue, establish their right to the exemption provided, in which case it will not be sufficient to merely declare that they are exempt, but they must show the character and purpose of the organization, the manner of distributing the net income, if any, or that none of the net income inures to the benefit of any private stockholder or individual. In the absence of such a showing, such organizations may, at any time, be required to make returns of annual net income or disclose their books of account to a revenue officer for examination in order that the status of the company may be determined.

Society or association subject to exemption defined.

Art. 89. A society or association "operating under the lodge system" is considered to be one organized under a charter, with properly appointed or elected officers, with an adopted ritual or ceremonial, holding meetings at stated intervals, and supported by fees, dues, or assessments.

Cemetery companies organized for mutual benefit of their members, exempt.

Art. 90. Cemetery companies organized and operated exclusively for the mutual benefit of their members are exempt. The provisions of the law clearly indicate that companies which operate cemeteries for profit are liable to the tax. The status of cemetery associations under the law will, therefore, depend upon the character and purpose of the organization and what disposition is made of the income.

Corporations whose status as to exemption is in doubt must make return.

Art. 91. Any corporation, concerning whose status under the law there is any doubt, or which does not clearly come within one or another of the classes of those specifically enumerated as exempt, should file a return

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(in blank if desired) and attach thereto a statement setting out fully the nature and purpose of the organization, the source of its income, and what disposition is made of it, and particularly of any surplus.

Cooperative dairies not issuing stock and allowing patrons dividends, exempt.

Art. 92. Cooperative dairies not issuing stock and allowing patrons dividends based on butter fat in milk furnished are not liable. In such case the "dividends" are the purchase price of the raw material furnished.

When income from public utilities is not taxable.

Art. 93. The income derived from any public utility or from the exercise of any essential governmental function, which income accrues to any State, Territory, the District of Columbia, or any political subdivision of a State, Territory, or the District of Columbia, and any income accruing to the government of the Philippine Islands, or to Porto Rico, shall not be subject to the tax imposed by this act. In cases wherein any State, Territory, or the District of Columbia, or any political subdivision of a State, or Territory, shall have, prior to the passage of this act, contracted in good faith with any person or corporation to acquire, construct, operate, or maintain a public utility, no income tax pursuant to this act shall be levied upon the income derived from the operation of such public utility, so far as the assessment and payment of such tax will impose a loss or burden upon such State, Territory, District of Columbia, or political subdivision. But the person or corporation is not relieved from the payment of the tax upon that portion of the income accruing to him, or it, under such contract.

Persons or corporations not exempt.

Partnerships not taxable as corporations.

Art. 94. Ordinary copartnerships are not, as such, subject to the tax imposed by this act, but the individual members of any such partnership are liable for income tax only in their individual capacity on their respective shares of the earnings of such partnership, whether such earnings be distributed or not.

What constitutes paid-up capital stock.

Art. 95. Full amount of stock, as represented by the par value of the shares issued, is to be regarded as the paid-up capital stock, except when such stock is assessable on account of deferred payments, or payable in installments, in which case the amount actually paid on such shares will constitute the actual paid-up capital stock of the corporation.

Gross income, how determined.

Art. 96. The following definitions and rules are given for determining the gross income of various classes of corporations:

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Gross income of banks and other financial institutions consists of the total revenue derived from the operation of the business, including income, gains, or profits from all other sources, as shown by the entries on the books of account, within the calendar or fiscal year for which the return is made.

Gross income of banks and other financial institutions.

Art. 97. Gross income of insurance companies consists of the total revenue derived from the operation of the business, including income, gains, or profits from all other sources, as shown by the entries on the books of account within the calendar or fiscal year for which the return is made, except as modified by the express exemptions of the articles which apply to mutual fire, mutual marine, and life insurance companies.

Gross income of insurance companies.

Art. 98. Mutual fire insurance companies, which require their members to make premium deposits to provide for losses and expenses, shall not return as gross income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves.

Gross income of mutual fire insurance companies.

Art. 99. Mutual marine insurance companies may include in their deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof, such amounts and interest having been included in gross income.

Mutual marine insurance companies.

Art. 100. Life insurance companies are authorized to omit from gross income such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to the policyholder or treated as an abatement of his premium. In so far as "deferred dividends" payable at a stated period represent "a portion of any actual premium received," such deferred dividends may be included in the amounts to be omitted from gross income for the year in which they were actually paid back, credited to the policyholder, or applied as an abatement of premium. In the case of dividends credited or apportioned annually to the policyholder, only the aggregate amount so actually credited or apportioned during the premium-paying period, and not any accretions thereto, can be excluded from gross

Deferred dividends deductible, when.

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income. In the case of whole-life or five-year distribution policies, deferred dividends may be excluded from gross income to the extent that they are paid back, or credited to the insured, or used as an abatement of his annual premiums.

Gross income of insurance companies, to include what.

Art. 101. Gross income of insurance companies, as defined above, will include net premium income as reported to the State insurance departments, except the foregoing items specifically exempted in the act, and, in the case of life insurance companies, surrender values applied in any manner, consideration for supplementary contracts involving and not involving life contingencies, and all other income, gains, or profit as shown by the books of account.

Consideration for supplementary contracts.

Art. 102. Applied surrender values and consideration for supplementary contracts not involving life contingencies included in income will, of course, be deducted as payments under policy contracts, but for convenience in verifying the returns, these items should appear in the return in both gross income and deductions.

Supplementary statement to accompany returns.

Art. 103. All insurance companies should include and attach to their returns a supplementary statement showing, for life companies, the aggregate of items "of such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder within such year;" in the case of mutual fire insurance companies a statement showing "any portion of the premium deposits returned to their policyholders;" and in the case of mutual marine companies "amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment thereof and the payment thereof," which are, or may be, omitted from gross income. (For authorized deductions, on account of losses, etc., see Arts. 113 and 147.)

Gross income of manufacturing companies.

Art. 104. Gross income of manufacturing companies shall consist of the total sales of manufactured goods during the year covered by the return, increased or decreased by the gain or loss as shown by the inventories of finished and unfinished products, raw material, etc., at the beginning and end of the year. To this amount should be added the income, gains, or profits from all other sources as shown by the books of account.

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Gross income of mercantile corporations.

Art 105. Gross income of mercantile companies shall include the total merchandise sales during the year, increased or decreased by the gain or loss as shown by the inventories of merchandise at the beginning and end of the year for which the return is made; to this amount should be added the income, gains, or profits derived from all other sources as shown by the books of account.

Gross income of miscellaneous companies.

Art. 106. Gross income of miscellaneous corporations consists of the total revenue derived from the operation and management of the business and property of the corporation making the return, together with all amounts of income, including the income, gains, or profits from all other sources as shown by the books of account.

Definition of gross income.

Art. 107. It will be noted from these definitions that the gross income embraces not only the operating revenues, but also income, gains, or profits from all other sources, such as rentals, royalties, interest, and dividends from stock owned in other corporations, and appreciation in values of assets, if taken up on the books of account as gain; also profits made from the sale of assets, investments, etc.

Income derived from sale of capital assets.

Art. 108. For the purpose of determining the income resulting from the sale of capital assets and the amount to be accounted for as income under this act, there shall be included any and all profit resulting from such sale and which may be apportioned to the period during which the corporation tax law (sec. 38, act of Aug. 5, 1909) was in force and effect, which was not returned as income during that period.

Ascertaining net income from the sale of capital assets.

Art. 109. In ascertaining net income derived from the sale of capital assets, if such assets were acquired subsequent to January 1, 1909, the difference between the selling price and the buying price shall constitute an item to be added to or subtracted from gross income according to whether the selling price was greater or less than the buying price. If the capital assets were acquired prior to January 1, 1909, the amount of profit or loss representing the difference between the selling and buying price is to be prorated to determine the proportion of the gain or loss arising subsequent to January 1, 1909, and the proportionate part belonging to the years subsequent to January 1, 1909, shall be added to or deducted from the gross income for the year in which the sale was made.

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Profit or loss arising from the sale of such assets.

Art. 110. For the purpose of determining the profit or loss arising from the sale of such assets, there shall be added to the price actually realized from the sale any amount which has heretofore been set aside and deducted from gross income by way of depreciation since January 1, 1909, which has not been paid out in making good such depreciation on the property sold.

Changes in book value of assets.

Art. 111. In the case of changes in book values of capital assets resulting from a reappraisal of property, the consequent gains or losses shall be computed for the return in the manner prescribed above in the case of the sale of capital assets

Result of annual adjustment of values to be shown in return.

In cases wherein there is an annual adjustment of book values of securities, real estate and like assets, and the increases and decreases in values, thus indicated, are taken up on the books and reflected in the profit and loss account, such readjusted values will be taken into account in making the return of annual net income and no prorating will be required. If such adjustment had been made annually prior to March 1, 1913, the book value of the assets at that date will be taken as the basis for determining gain or loss resulting from subsequent sale, maturity, or adjustment. The adjustment referred to will comprehend assets which have increased in value as well as those which have decreased.

Where corporations are engaged in more than one class of business.

Art. 112. Where a corporation is engaged in carrying on more than one class of business, gross income derived from the different classes of business shall be ascertained according to the definitions above, and which are applicable thereto.

Net income, how ascertained.

Art. 113. The net income shall be ascertained by deducting from the gross amount of the income of such corporation received within the year from all sources:

Ordinary and necessary expenses.

First. All the ordinary and necessary expenses paid within the year in the maintenance and operation of its business and properties, including rentals or other payments required to be made as a condition to the continued use or possession of property.

Loss sustained within the year.

Second. All losses actually sustained within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation by use, wear and tear of property, if any, and in the case of mines, a reasonable allowance for depletion of ores and all natural deposits, not to exceed 5 per centum of the gross value

Depreciation.

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at the mine of the output for the year for which the computation is made; and in the case of insurance companies, the net addition, if any, required by law to be made within the year to reserve funds, and the sums other than dividends paid within the year on policy and annuity contracts, except as provided in the cases of mutual fire, mutual marine, and life insurance companies.

Interest accrued and paid within the year.

Third. The amount of interest accrued and paid within the year on its indebtedness to an amount of such indebtedness not exceeding one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock outstanding at the close of the year, or if no capital stock, on the amount of its indebtedness not exceeding the amount of capital employed in the business at the close of the year: *Provided*, That in case of indebtedness wholly secured by collateral the subject of sale in ordinary business of such corporation, joint-stock company, or association, the total interest secured and paid by such company, corporation, or association within the year on any such indebtedness may be deducted as a part of its expense of doing business: *Provided further*, That in the case of bonds or other indebtedness, which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed shall be allowed; and in the case of a bank, banking association, loan, or trust company, interest paid within the year on deposits or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan, or trust company.

Interest on indebtedness secured by collateral.

Tax paid on guaranteed bonds not deductible.

Taxes paid within the year.

Fourth. All sums paid within the year for taxes imposed under the authority of the United States, or any State or Territory thereof, or imposed by the government of any foreign country.

General expenses.

Art. 114. Expenses of operation and maintenance shall include all expenditures for material, labor, fuel, and other items entering into the cost of the goods sold or inventoried at the end of the year, and all other expenses incurred in the operation of the business except such as are required by the act to be segregated in the return.

Cost of buildings on leased grounds.

Art. 115. The cost of erecting permanent buildings on ground leased by a company is a proper deduction as a rental charge, provided such buildings are left on the ground at the expiration of the lease as a part of the rental payment. In such case the cost will be prorated

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according to the number of years constituting the term of the lease and the annual deduction will be made accordingly.

Expense, foreign steamship companies.

Art. 116. General expenses, such as coal, ship stores, etc., of foreign steamship companies, shall be prorated as provided in the act for interest deductions in the case of foreign corporations.

Commissions to salesmen paid in stock.

Art. 117. Commissions allowed salesmen, paid in stock, may be deducted as expense if so charged on books at the actual value of such stock.

Additions and betterments.

Art. 118. Amounts expended in additions and betterments which constitute an increase in capital investment are not a proper deduction.

Compensation based on stockholding not deductible.

Art. 119. Amounts paid as compensation or additional compensation to officers or employees, which amounts are based upon the stockholdings of such officers or employees, are held to be dividends, and although paid in lieu of salaries or wages, are not allowable deductions from gross income, for the reason that dividends are not deductible.

Gifts, pensions, or gratuities not deductible.

Art. 120. Amounts paid for pensions to retired employees, or to their families, or others dependent upon them, or on account of injuries received by employees, are proper deductions as "ordinary and necessary expenses"; gifts or gratuities to employees in the service of a corporation are not properly deductible in ascertaining net income.

Donations which are deductible.

Art. 121. Donations made for purposes connected with the operation of the property when limited to charitable institutions, hospitals, or educational institutions, conducted for the benefit of its employees, or their dependents, shall be a proper deduction for ordinary and necessary expenses.

Reserves for insurance.

Art. 122. Funds set aside by a corporation for insuring its own property are not a proper deduction, but any loss actually sustained and charged to such fund may be deducted.

Materials and supplies.

Art. 123. In ascertaining expenses proper to be included in the deductions to be made under the item of "Expenses," corporations carrying materials and supplies on hand for use should include in such expenses the charges for materials and supplies only to the amount that the same are actually disbursed and used in operation and maintenance during the year for which the return is made.

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Losses sustained during the year.

Art. 124. The deduction for losses must be losses actually sustained during the year and not compensated by insurance or otherwise. It must be based upon the difference between the cost value and salvage value of property or assets, including in the latter value such amount, if any, as has, in the current or previous years, been set aside and deducted from gross income by way of depreciation, as elsewhere defined, and has not been paid out in making good such depreciation.

Bad debts charged off.

Art. 125. Bad debts, if so charged off the company's books, during the year, are proper deductions. But such debts, if subsequently collected, must be treated as income.

Reserves not deductible.

Art. 126. Reserves to take care of anticipated or probable losses are not a proper deduction from gross income.

Loss due to removal of buildings.

Art. 127. Loss due to voluntary removal of buildings, etc., incident to improvements is either a proper charge to the cost of new additions or to depreciation already provided, as the facts may indicate, but in no case is it a proper deduction in determining net income, except as it may be reflected in the reasonable amount allowable as a deduction for depreciation of the new building. Any loss claimed because of the voluntary removal of a building is presumed to have been covered by previous depreciation charges; otherwise the amount of such loss will constitute a part of the cost of the new building.

Losses from sale of capital assets.

Art. 128. All losses claimed arising from sale of capital assets should be arrived at in the manner prescribed in article 109, defining gains arising from sale of capital assets.

Depreciation defined.

Art. 129. The deduction for depreciation should be the estimated amount of the loss, accrued during the year to which the return relates, in the value of the property in respect of which such deduction is claimed, that arises from exhaustion, wear and tear, or obsolescence out of the uses to which the property is put, and which loss has not been made good by payments for ordinary maintenance and repairs deducted under the heading of expenses of maintenance and operation. This estimate should be formed upon the assumed life of the property, its cost, and its use. Expenses paid in any one year in making good exhaustion, wear and tear, or obsolescence in respect of which any deduction for depreciation is claimed must not be included in the deduction for ex-

Depreciation how determined.

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pense of maintenance and operation of the property, but must be made out of accumulated allowances, deducted for depreciation in current and previous years.

Depreciation deductible, how treated.

Art. 130. The depreciation allowance, to be deductible, must be, as nearly as possible, the measure of the loss due to wear and tear, exhaustion, and obsolescence, and should be so entered on the books as to constitute a liability against the assets of the company, and must be reflected in the annual balance sheet of the company. The annual allowance deductible on this account should be such an amount as that the aggregate of the annual allowances deducted during the life of the property, with respect to which it is claimed, will not, when the property is worn out, exhausted, or obsolete, exceed its original cost.

Incidental repairs.

Art. 131. Incidental repairs which neither add to the value of the property nor appreciably prolong its life, but keep it in an operating condition, may be deducted as expenses.

Depreciation reserve.

Art. 132. Depreciation set up on the books and deducted from gross income can not be used for any purpose other than making good the loss sustained by reason of the wear and tear, exhaustion, or obsolescence of the property with respect to which it was claimed. If it develops that an amount has been reserved or deducted in excess of the loss by depreciation, the excess shall be restored to income and so accounted for.

Diversion of depreciation reserve

Art. 133. If any portion of the depreciation set up is diverted to any purpose other than making good the loss sustained by reason of depreciation, the income account for the year in which such diversion takes place must be correspondingly increased.

Shrinkage in book values.

Art. 134. Depreciation in book values of capital assets shall be treated in the return in the manner prescribed in the case of loss from the sale of capital assets (art. 109), but amounts arbitrarily charged off will not be allowed as deductions except so far as they represent an actual shrinkage in values which may be determined to have taken place during the year for which the return is made.

Art. 135. Where a corporation holds bonds which were purchased at a rate above par and said corporation shall proportionately reduce the value of those bonds on its books each year so that the book value shall be the redemption value of the bonds when such bonds become due and payable, the return of annual net income of the

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corporation holding such bonds may show the depreciation on account of amortization of such bonds. The requirement is, however, that the amount carried to the amortization account each year shall be equitably proportioned with respect to the difference between the purchase price and the maturing value and the number of years to elapse until the bonds become due and payable. With respect to bond issues where such bonds are disposed of for a price less than par and are redeemable at par, it is also held that because of the fact that such bonds must be redeemed at their face value, the loss sustained by reason of their sale for less than their face value may be prorated by the issuing corporation in accordance with the life of the bond.

Amortization of bonds.

Loss to be prorated.

Art. 136. "Good will" represents the value attached to a business over and above the value of the physical property, and is such an entirely intangible asset that no claim for depreciation in connection therewith can be allowed.

Good will.

Art. 137. An allowance for depreciation of patents will be made on the following basis:

The deduction claimed for exhaustion of the capital assets as represented by patents to be made in the return of annual net income of a corporation for any given year shall be one-seventeenth of the actual cost of such patents reduced to a cash basis. Where the patent has been secured from the Government by a corporation itself, its cost would be represented by the various Government fees, cost of drawings, experimental models, attorneys' fees, etc. Where the patent has been purchased by the corporation for a cash consideration, the amount would represent the cost. Where the corporation has purchased a patent and made payment therefor in stocks or other securities, the actual cash value of such stocks or other securities at the time of the purchase will represent the cost of the patent to the corporation.

Depreciation on patents.

How determined.

Art. 138. With respect to the depreciation of patents, one-seventeenth of the cost is allowable as a proper deduction each year until the cost of the patent has been returned to the corporation. Where the value of a patent has disappeared through obsolescence or any other cause and the fact has been established that the patent is valueless, the unreturned cash investment remaining in the patent may be claimed as a total loss and be deducted from gross income in the return of annual net income for

Deduction in case of obsolescence of patents.

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the year during which the facts as to obsolescence or loss shall be established, such unreturned cash value to be fixed in accordance with the proportion that the number of years which the patent still has to run bears to the full patent period of 17 years.

Depreciation of timber land.

Art. 139. Corporations owning tracts of timber lands and removing therefrom and selling, or otherwise disposing of the timber will be permitted to deduct from their gross income on account of depreciation or depletion an amount representing the original cost of such timber, plus any carrying charges that may have been capitalized or not deducted from income. The purpose of the depreciation or depletion deduction is to secure to the corporation, when the timber has been exhausted, an aggregate amount which, plus the salvage value of the land, will equal the capital actually invested in such timber and land.

Deductions to cease, when.

Art. 140. When an amount sufficient to return this capital has been secured through annual depreciation deductions no further deduction on this account shall be allowed. For the purpose of increasing the deduction on this account no arbitrary increase in values shall be made, unless such increase in value shall be returned as income for the year in which the increase in value was taken up on the books.

Depreciation of natural deposits.

Art. 141. The depreciation of coal, iron, oil, gas, and all other natural deposits must be based upon the actual cost of the properties containing such deposits. In no case shall the annual deduction on this account exceed 5 per cent of the gross value at the mine (well, etc.) of the output for the year for which the computation is made.

Definition of "gross value" at the mine.

Art. 142. The term "gross value at the mine," as used in paragraphs B and G of section 2 of the act of October 3, 1913, prescribing a limit to the amount which may be deducted in the return of individuals and corporations as depreciation in the case of mines, is held to mean the market value of ore, coal, crude oil, and gas at the mine or well, where such value is established by actual sales at the mine or well; and in case the market value of the product of the mine or well is established at some place other than at the mine or well, or on the basis of the bullion or metallic value of the ore, then the gross value at the mine is held to be the value of the ore, coal, oil,

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or gas sold, or of the metal produced, less transportation, reduction, and smelting charges.

Rate of deduction to be reduced, when.

If the rate of 5 per cent per annum shall return to the corporation its capital investment prior to the exhaustion of the deposits, the rate on which the annual deduction for depletion of deposits is based must be lowered in accordance with the estimated number of years it will take to exhaust the estimated reserves.

Deduction to cease, when.

In case the reserves shall be in excess of the estimates, no further deduction on account of depletion shall be made where the capital investment has been returned to the corporation.

Depreciation of plant, etc.

Art. 143. In addition to the deduction to measure the loss due to depletion, the corporation will be allowed the usual depreciation of its machinery, equipment, etc., such depreciation to be determined on the basis of the cost and estimated life of the property with respect to which the depreciation is claimed.

Corporations leasing oil or gas.

Art. 144. Corporations leasing oil or gas territory shall base their depletion deduction upon the cost of the lease, and not upon the estimated value, in place, of the oil or gas.

Corporations operating mines.

Art. 145. Corporations operating mines (including oil or gas wells) upon a royalty basis only can not claim depreciation because of the exhaustion of the deposits.

Unearned increment.

Art. 146. Unearned increment will not be considered in fixing the value on which depreciation shall be based.

Deduction of losses, depreciation, payments on policy contracts by insurance companies.

Art. 147. (*a*) Under item 5 (*a*) of the return form, the insurance company may take credit for all losses actually sustained during the year and not compensated by insurance or otherwise, including losses resulting from the sale or maturity of securities or other assets, as well as decreases by adjustment of book values of securities, in so far as such decreases represent actual declines in values which have taken place during the year for which the return is made; also losses from agency balances, or other accounts, charged off as worthless; losses by defalcation; premium notes voided by lapse, when such notes shall have been included in gross income. This item will not, however, include payments on policy contracts.

Losses by shrinkage in value of property.

(*b*) In this item may be deducted actual losses sustained within the year by reason of the depreciation of property, which shall have been so entered on the books of the company as to constitute a liability against its assets. An arbitrary depreciation deduction claimed in

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the return, but not evidenced by book entry, can not be allowed.

Policy contracts paid.

(*c*) In this item credit will be taken for all death, disability, or other policy claims, including fire, accident, and liability losses, matured endowments, annuities, payments on installment policies, surrender values, and all claims actually paid under the terms of policy contracts. Salvage need not be included in gross income if deducted in ascertaining the net amount paid for losses under policy contracts. Reserves covering liabilities for losses incurred, reported, resisted, adjusted or unadjusted but not paid, can not be deducted from gross income under this or any other item of the return.

Losses incurred and upaid not deductible.

Additions to reserves required by law, how determined.

(*d*) The reserve funds of insurance companies to be considered in computing the deductible net addition to reserve funds are held to include only the reinsurance reserve and the reserve for supplementary contracts required by law in the case of life insurance companies, the unearned premium reserves required by law in the case of fire, marine, accident, liability, and other insurance companies, and only such other reserves as are specifically required by the statutes of a State within which the company making the return is doing business. The reserves used in computing the net addition must not include the reserve on any policies the premiums on which have not been accounted for in gross income. For the purpose of this deduction, the net addition is the excess of the reserve at the end of the year over that at the beginning of the year and may be based upon the highest authorized reserve required by any State in which the company making the return does business.

Assessment company reserves.

In the case of assessment insurance companies, the actual deposits of sums with the State or Territorial officers pursuant to law, as additions to guaranty or reserve funds, shall be treated as payments required by law to reserve funds.

Mutual marine insurance companies will deduct under item 5(e) amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof.

What constitutes allowable interest deduction.

Art. 148. The amount of interest accrued and paid within the year by a corporation on an amount of bonded or other indebtedness not in excess of *one-half* of the *sum* of the interest-bearing indebtedness *and* the paid-up

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capital stock outstanding at the close of the year, or, if no capital stock, on the amount of interest-bearing indebtedness not exceeding the amount of capital employed in the business at the close of the year, constitutes an allowable deduction; that is, the maximum principal, upon which interest for the purpose of this deduction, can be computed must not exceed, in the one case, one-half of the sum of the interest-bearing indebtedness and the capital stock outstanding at the close of the year, or, in the other case, must not exceed the amount of capital employed in the business at the close of the year. The interest to be deductible must have been computed on the proper principal at the contract rate and must have been actually paid within the year.

Interest paid as rental deductible.

Interest paid pursuant to contract on an indebtedness secured by mortgage on real estate occupied and used by a corporation, in which real estate the corporation has no equity or to which it is not taking title is an allowable deduction from gross income as a rental charge, payment of which is required to be made as a condition to the continued use and possession of the property. If, however, the corporation has an equity in or is purchasing for its own use the real estate upon which such mortgage is a prior lien, the indebtedness will be held to be indebtedness of the corporation within the meaning of the law and the interest paid on such mortgage will be deductible only to the extent that it, with interest on other obligations of the corporation, is within the limit fixed by the act.

Interest on mortgage on real estate in which corporation has equity not deductible.

Banks and banking associations.

Art. 149. In the case of banks and banking associations, loan or trust companies, interest paid within the year on deposits, or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company, may be allowably deducted from the gross income of such corporations.

Interest paid on indebtedness.

Art. 150. Interest paid on indebtedness, wholly secured by collateral the subject of sale in ordinary business of such corporations, is also deductible to the full amount of such interest paid. This contemplates that the entire interest received on the collateral securing such indebtedness shall be included in the gross income returned.

Different rates of interest.

Art. 151. Interest on bonded or other indebtedness bearing different rates of interest may be deducted from gross income during the year, provided the aggregate

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amount of such indebtedness on which the interest is paid does not exceed the limit prescribed by law, and in case the indebtedness is in excess of the amount on which interest may be legally deducted the indebtedness bearing the highest rate may be first considered in computing the interest deduction and the balance, if any, will be computed upon the indebtedness bearing the next lower rate actually paid, and so on until interest on the maximum principal allowed has been computed.

Taxes deductible.

Art. 152. All sums paid within the year for taxes imposed under the authority of the United States or of any State or Territory thereof, or imposed by the government of any foreign country, are deductible from gross income.

Taxes not deductible.

Art. 153. Taxes paid for local benefits are not deductible. Taxes paid by a corporation pursuant to a contract guaranteeing that the interest payable on its bonds or other indebtedness shall be free from taxation are not deductible.

Tax on capital stock of banks.

Art. 154. Banks paying taxes assessed against their stockholders because of their ownership of the shares of stock issued by such banks can not deduct the amount of taxes so paid in making their return for the income tax imposed by this act unless specially authorized to do so by the laws of the State in which they do business. The shares of stock are the property of the stockholders, and such holders are primarily liable for the tax.

Import duties.

Art. 155. Import duties or taxes are not deductible under the item of taxes paid during the year, but should be included in arriving at the cost of goods under item No. 4 (expenses).

Reserves for taxes.

Art. 156. Reserves for taxes can not be allowed, as the law specifically provides that only such sums as are paid within the year for taxes shall be deducted.

Foreign corporations subject to tax.

Art. 157. Foreign corporations shall be subject to the normal tax of 1 per cent computed upon the net income received by or accruing to such corporations from business transacted and capital invested in this country. For the purpose of the tax the net income of such foreign organizations shall be ascertained by deducting from the gross income arising, received, or accruing from business done and capital invested in this country the deductions enumerated in the act, which deductions shall be limited to expenditures or charges actually incurred in the maintenance and operation of the business transacted and capital invested in the United States or, as to certain charges,

Deductions confined to expenses of business done in the United States.

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such proportion of the aggregate charges as the gross income from business done and capital invested in the United States bears to the aggregate income within and without the United States. In other words, the deductions from the gross income of a foreign corporation doing business in this country should, as nearly as possible, represent the actual expenses and authorized charges incident to the business done and capital invested in this country and must not comprehend, either directly or indirectly, any expenditures or charges incurred in the transaction of business or the investment of capital without the United States.

How deductions shall be evidenced.

Art. 158. It is immaterial whether the deductions except for taxes and losses are evidenced by actual disbursements in cash, or whether evidenced in such other way as to be properly acknowledged by the corporate officers and so entered on the books of the corporation as to constitute a liability against the assets of the corporation making the return. Deductions for taxes, however, should be the aggregate of the amounts actually paid, as shown on the cash book of the corporation. Deductions for losses should be confined to losses actually sustained and charged off during the year and not compensated by insurance or otherwise. Except as the same may be modified by the provisions of the act, limiting certain deductions and authorizing others, the net income as returned for the purpose of the tax should be the same as that shown by the books or the annual balance sheet.

Tax on net income of corporations for the year 1913.

Art. 159. The tax imposed upon the income of corporations, whether domestic or foreign, shall be computed upon the net income, ascertained in the manner hereinbefore indicated, except that for the year ending December 31, 1913, the income tax will be imposed upon the net income accrued from March 1 to December 31, both dates inclusive, and such amount of net income is ascertained by taking five-sixths of the entire net income for said calendar year.

Special excise tax on corporations.

Art. 160. The special excise tax on corporations provided for in the act of August 5, 1909, is reaffirmed and made operative and effective as to the period from January 1 to February 28, 1913, both dates inclusive, which said tax shall be computed upon one-sixth of the entire net income of said corporations for said year, and the

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net income shall be ascertained in accordance with the provisions of the income-tax law.

Return and assessment.

For the year 1913 it shall be necessary to make but one return and assessment for all taxes imposed in the income-tax law upon corporations, either by way of income or excise, which return and assessment shall be made at the times and in the manner provided in section 2 of the act of October 3, 1913.

No specific exemption allowable as a deduction.

Under the present law, no specific exemption is allowable, as was the case under the corporation-tax law; hence the assessment will be based upon the entire net income of the corporation arising or accruing to it from all sources during the entire year for which the return is made.

Inventories.

Art. 161. In order that certain classes of corporations may arrive at their correct income, it is necessary that an inventory, or its equivalent, of materials, supplies, and merchandise on hand for use or sale at the close of each calendar year shall be made in order to determine the gross income or to determine the expense of operation.

Physical inventory.

A physical inventory is at all times preferred, but where a physical inventory is impossible and an equivalent inventory is equally accurate, the latter will be acceptable.

An equivalent inventory is an inventory of materials, supplies, and merchandise on hand taken from the books of the corporation.

Corporations, classes of.

Art. 162. For the purpose of this tax, corporations are divided into five classes, as follows:

Class A.

Class A. *Financial and commercial,* including banks, banking associations, trust companies, guaranty and surety companies, title insurance companies, building associations (if for profit), and insurance companies, not specifically exempt.

Class B.

Class B. *Public service,* such as railroad, steamboat, ferryboat, and stage-line companies; street-railway companies; pipe-line, gas-light, and electric-light companies; express companies, telegraph and telephone companies.

Class C.

Class C. *Industrial and manufacturing,* such as mining, oil and gas producing companies, lumber and coke companies; rolling mills; foundry and machine shops; sawmills; flour, woolen, cotton, and other mills; manufacturers of cars, automobiles, elevators, agricultural implements, etc.; manufacturers or refiners of sugar,

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molasses, sirups, or other products; ice and refrigerating companies; slaughterhouse, tannery, packing, or canning companies; printing and publishing companies, etc.

Class D: *Mercantile*, including all dealers (not otherwise classed as producers or manufacturers) in coal, lumber, grain, produce, and all goods, wares, and merchandise. Class D.

Class E: *Miscellaneous*, such as architects, contractors, hotel, theater, or other companies or associations not otherwise classified. Class E.

Art. 163. Under the authority conferred by this act, forms of return have been prescribed, in which the various items specified in the law are to be stated. Blank forms of this return will be forwarded to collectors and should be furnished to every corporation, not expressly exempted, on or before January 1 of each year, in the case of corporations making their returns for the calendar year, or on or before the first day of the next fiscal year in the case of corporations making returns for their fiscal year. Failure on the part of any corporation, joint-stock company, association, or insurance company liable to this tax to receive a prescribed blank form will not excuse it from making the return required by law, or relieve it from any penalties for failure to make the return in the prescribed time. Corporations not supplied with the proper forms for making the return should make application therefor to the collector of internal revenue in whose district is located its principal place of business in ample time to have its return prepared, verified, and filed with the collector on or before the last due date as hereinafter defined. Failure in this respect subjects it not only to 50 per cent additional tax, but to the specific penalty imposed for delinquency. Each corporation should carefully prepare its return so as to fully and clearly set forth the data therein called for. Imperfect or incorrect returns will not be accepted as meeting the requirements of the law. Form of return.

Art. 164. To any sum or sums due and unpaid after the date for payment stated in the notice and demand issued by the collector there shall be added the sum of 5 per cent of the amount so unpaid, and interest at the rate of 1 per cent per month. To the amount assessable on the basis of the net income there shall be added 50 per cent in case of refusal or neglect of a corporation to make a return or 100 per cent in case of a false or fraud- Penalties imposed by act.

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ulent return. For refusal or neglect to make a return within the prescribed time, or for a false or fraudulent return, the corporation so offending shall be liable to a specific penalty not exceeding $10,000. Any person divulging unlawfully any information whatever disclosed by a return shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

Any person or any officer of any corporation required by law to make, render, sign, or verify any return, who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by section 2, act of October 3, 1913, shall be guilty of a misdemeanor and shall be fined not exceeding $2,000 or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

Fraudulent returns.

Fiscal year; how established.

Art. 165. The Federal income-tax law authorizes corporations, joint-stock companies, etc., under certain conditions to make their returns on the basis of an established "fiscal year" or consecutive 12-months period, which may be other than the calendar year.

Pursuant to this provision the following instructions are issued for the guidance of collectors and other interested parties:

May designate day for closing of fiscal year and must give at least 30 days' notice to collector of the day so designated.

Any corporation, joint-stock company, or association, or any insurance company subject to the tax imposed by this act may, at its option, have the tax payable by it computed upon the basis of the net income arising or accruing from all sources during its fiscal year, provided that it shall designate the last day of the month selected as the month in which its fiscal year shall close as the day of the closing of its fiscal year, and shall, not less than 30 days prior to the date upon which its annual return is to be filed give notice, in writing, to the collector of internal revenue of the district in which its principal place of business is located, of the day it has thus designated as the closing of such fiscal year.

Illustration of fiscal year.

Art. 166. In pursuance of this provision, a corporation or like organization subject to this tax may, for example, designate the 30th day of September as the day for the closing of its fiscal year, whereupon its return of annual net income shall be filed with the collector of internal revenue of the district in which its principal place of business is located not later than 60 days after the close

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of its said proposed fiscal year; that is to say, on or before the 29th day of November next succeeding.

The date of the closing of the fiscal year having been designated, notice thereof must be given to the collector not less than 30 days prior to the last day of such 60-day period. In the case just instanced the notice must be given not later than October 29.

If such designation (September 30, 1913) had been made and notice given, as hereinbefore indicated, as to the closing of the fiscal year 1913, the corporation would be authorized to make its return and have the tax payable by it computed upon the basis of the net income arising or accruing to it during the period from January 1 to September 30, 1913, both dates inclusive.

Collectors must make a record of the designation of the "fiscal year."

Art. 167. Collectors of internal revenue receiving notices of the selection and designation of the "fiscal years," as above indicated, will make record of the same, recording, (*a*) the name of the corporation or like organization, (*b*) the date when notice was given, (*c*) the day designated for the closing of the fiscal year, and (*d*) the date when the return under such designation must be filed, which must be, as above stated, not later than the last day of the 60-day period next following the day designated as the close of the fiscal year.

Unless notice was given within prescribed time, calendar year will govern.

Art. 168. If it shall appear that for the year 1913 the notice was given within the prescribed time—that is, within 30 days of the last day of the 60-day period—the 1913 return may be made as of the fiscal year so established; otherwise it will be made on the basis of the calendar year until such time as the designation shall be duly made and notice thereof properly given.

Designation and notice can not be retroactive.

Art. 169. The designation and notice can not be retroactive; that is to say, if a corporation now designates April 30, 1914, as the date of the closing of its fiscal year and gives notice of such designation, it would not be authorized to make a return for the four months ended April 30, 1913, and then for the fiscal year ended April 30, 1914, nor would it be authorized to make one return covering the entire 16 months ended April 30, 1914. In the case of such corporation the return for the year must be made for the calendar year ended December 31, 1913, and then, assuming that designation and notice had been properly made and given, it may make a return for the four months ended April 30, 1914, and thereafter

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the return will be made on the basis of the fiscal year so established.

Where fiscal year is not properly established, returns must be made for calendar year.

Art. 170. In all cases where a fiscal year is not established as above prescribed returns must be made on the basis of the calendar year, in which case such returns must be filed on or before the 1st day of March next succeeding such calendar year. Such returns in either case provided must be verified under oath or affirmation of its president or other principal officer, and its treasurer or assistant treasurer; that is to say, by two different persons acting in the official capacity indicated.

Returns made on basis of fiscal year not so designated can not be accepted.

Art. 171. If it shall appear in any case that returns have been made to the collector on the basis of a fiscal year not designated as above indicated, the corporations making such returns will be advised that such returns can not be accepted, but must be made to cover the business of the calendar year.

Returns for 1913 must be made on new forms.

Art. 172. Returns made under this act and pursuant to these instructions must be made on the new forms prescribed by this department.

The forms heretofore in use, under the special excise tax law, can not be used for making returns for either the fiscal or calendar year 1913.

Extension not to exceed 30 days.

Art. 173. An extension of time within which a return may be filed can in no case exceed 30 days from the date on which the return is due and can be granted only upon written application to the collector, and in case of sickness or absence of an officer whose signature to the return is required, such application to be made prior to the expiration of the period for which the extension is desired.

Returns properly mailed in time to reach collector not subject to penalty under certain conditions.

Art. 174. If a return is made and placed in the United States mails, properly addressed, and postage paid, in ample time, in due course of mails, to reach the office of the collector or deputy collector on or before the last due date, no penalty will be held to attach should the return not be actually received by such officer until subsequent to that date.

Last due date defined.

Art. 175. "Last due date," as hereinbefore used, is construed to mean the last day upon which a return is required to be filed in accordance with the provisions of the law, or the last day of the period not exceeding 30 days covered by an extension of time granted by the collector.

When due date falls on Sunday or legal holiday.

Art. 176. When the due date as above defined falls on Sunday or on a legal holiday, the last due date will

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be held to be the day next following such Sunday or legal holiday and the return should be made to the collector not later than such following day, or, if placed in the mails, it should be posted in ample time to reach the collector's office, under ordinary handling of the mails, on or before the date on which the return is thus made due in the office of the collector.

Assessment and payment of taxes.

Art. 177. All assessments against corporations, etc., making returns for the calendar year are required to be made and the several corporations, joint-stock companies, etc., notified of the amount for which they are liable on or before the 1st of June of each sucessive year, and said assessments shall be paid on or before the 30th day of June of such year. In the case of corporations making returns for the fiscal year, the assessments shall be made and notice given on or before the expiration of 90 days from the date when the returns were required to be filed, and the taxes assessed against such corporations, etc., shall be paid within 120 days after the date upon which the returns were required to be filed. In case of refusal or neglect by a corporation, etc., to make a return, and in case of false or fraudulent return, the commissioner, upon the discovery thereof within three years after such returns are due, shall make a return upon information obtained in the manner provided in the act, and the assessment made on the basis of such return shall be paid immediately upon notice and demand given by the collector.

For calendar year.

Notice of assessment.

Failure to pay tax when due.

Upon failure to pay the tax when due and for 10 days after notice and demand, a penalty of 5 per cent of the amount of the tax unpaid and interest at the rate of 1 per cent per month until paid shall be added to the amount of such tax.

Returns are public records, subject to inspection upon order of the President.

Art. 178. When the assessments shall have been made, the returns shall be filed in the office of the commissioner and shall constitute public records, subject to inspection upon the order of the President, under rules and regulations prescribed by the Secretary of the Treasury and approved by the President. Copies of returns on file in the Commissioner's office are not permitted to be sent to any person, except to the corporation itself or to its duly authorized attorney.

Information to States which impose income taxes.

Art. 179. Upon request of the governor of a State which imposes a general income tax, the proper officers of such State may have access to the returns filed by corpo-

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rations doing business in such States, or to an abstract thereof showing the name and income of such corporations, etc., at such times and in such manner as the Secretary may prescribe. In no case are the original returns to be removed from the office of the commissioner, except upon order and by direction of the Secretary of the Treasury or the President.

Certified copies of returns.

Art. 180. At the request of the Attorney General, or by direction of the Secretary of the Treasury, certified copies of returns may be made and delivered to the United States district attorneys for their use as evidence in the prosecution or defense of suits in which the collection or legality of the tax assessed on the basis of such returns is involved, or in any suit to which the United States Government and the corporation, etc., making the return are parties and in which suit such certified copies would constitute material evidence.

Penalty for giving information in regard to returns.

Art. 181. The disclosure by any collector, deputy collector, agent, clerk, or other officer or employee of the United States to any person of any information whatever contained in or set forth by any return of annual net income made pursuant to this act is, by the act, made a misdemeanor, and is punishable by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both, at the discretion of the court, and if the offender is an officer or employee of the United States he shall be dismissed and be incapable thereafter of holding any office under the United States Government.

Bookkeeping.

Art. 182. No particular system of bookkeeping or accounting will be required by the department. However, the business transacted by corporations must be so recorded that each and every item set forth in the return of annual net income may be readily verified by an examination of the books of account.

Books of account best guide to income.

Art. 183. The books of a corporation are assumed to reflect the facts as to its earnings, income, etc. Hence they will be taken as the best guide in determining the net income upon which the tax imposed by this act is calculated. Except as the same may be modified by the provisions of the law, wherein certain deductions are limited, the net income disclosed by the books and verified by the annual balance sheet, or the annual report to stockholders, should be the same as that returned for taxation.

Omitted taxes may be assessed.

Art. 184. In cases wherein corporations have neglected or refused to make returns, and in cases wherein returns

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made are found, upon investigation or otherwise, to be false or fraudulent, the commissioner may, upon discovery thereof, at any time within three years after said return is due, make return upon the information obtained in the manner provided in the act, and the tax so discovered to be due, together with the additional tax prescribed, shall be assessed, and the amount thereof shall be paid immediately upon notice and demand.

Corporations subject to normal tax.

Art. 185. Corporations coming within the terms of this law are subject to the normal tax only; that is, a tax computed at a level rate of 1 per cent of their entire net income regardless of the amount of such net income.

Examination of books.

Art. 186. For the purpose of verifying any return, made pursuant to this act, the Commissioner of Internal Revenue may, by any duly authorized revenue agent or deputy collector, cause the books of such corporation to be examined, and if such examination discloses that the corporation is liable to tax in addition to that previously assessed, or assessable, the same shall be assessed and shall be payable immediately upon notice and demand. For the purpose of such examination, the books of corporations shall be open to the examining officer, or shall be produced for this purpose upon summons issued by any properly authorized officer.

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PART 4.

ASSESSMENT AND COLLECTION.

Taxes due to be reported on assessment lists.

Art. 187. All income taxes found to be due will be reported by collectors on their assessment lists, Form 23–A in the case of corporations, and on Form 23–B in the case of individuals and withholding agents.

Names to be listed in alphabetical order.

Art. 188. The names of corporations subject to tax will be listed on Form 23–A, according to their designated class, and in alphabetical order as to each class. Names of individuals subject to tax will be listed on Form 23–B, alphabetically, without reference to class or rate of tax. Following such names there will be listed, alphabetically, the names of all withholding or licensed collecting agents, and the *aggregate* amount of tax withheld by each, as shown by the annual returns rendered by them. An assessment against each person, firm or company, from whose income the tax has been so withheld, will be unnecessary in such cases.

Names of withholding agents, how to be listed.

Assessment against withholding agents to be deferred until annual reports are received.

Art. 189. To avoid, as far as possible, the assessment of taxes as to which claims for exemption or deduction may be filed under article 33, collectors will delay reporting for assessment taxes remaining in the hands of withholding agents, until the annual reports of such agents, which must be filed not later than March 1 in each year, are received.

Returns, when to be made.

Art. 190. Returns of withholding agents (including those of licensed collecting agents) as to interest payments shall be made monthly and returns containing summaries of said monthly returns shall be made annually. (See Part 2, A, B, and C.) Returns of individuals (see Part 1), corporations (see Part 3), and withholding agents, withholding tax on wages, salaries, rents, etc. (see Part 2, D), and fiduciaries acting as withholding agents (see Part 2, E) shall be made annually. All monthly returns are required to be made on or before the 20th day of each month for the preceding month. All annual returns are required to be made on or before the 1st day of March in each year, except in the case of

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corporations which have given due notice of the termination of their fiscal year, in which cases the prescribed return is to be filed within 60 days after the termination of such fiscal year.

Corporations may include in returns for year 1913 income subject to special excise tax.

Art. 191. Corporations which are subject to the special excise tax on income received during the months of January and February, 1913, may, under the provisions of section 4, paragraph S, of the act of October 3, 1913, include such income, as also the income taxable under said act, in one return for the year 1913. In each such case one assessment only will be made.

Returns of income to be forwarded with assessment lists.

Art. 192. All returns of income, whether of individuals or corporations, should be forwarded with the assessment list rendered. Where in any case the collector has reason to believe that any return rendered is false or fraudulent, he will prepare and retain in his office a copy of such return, and will note on the original and under the head of "Remarks" of his assessment list the words "Investigation pending." He will in all such cases make his investigation in the manner prescribed in section 3173, Revised Statutes, and paragraph D of said act of October 3, 1913; and he will report the results of his investigation to the Commissioner of Internal Revenue, referring to the list, folio, and line on which the assessment was reported.

False or fraudulent returns.

Certain returns of withholding agents to be in duplicate.

Art. 193. Monthly and annual returns of withholding agents (including those of licensed agents) as to interest payments and the annual returns of withholding agents. withholding tax on wages, salaries, etc., will be made in duplicate, one copy of which will be retained by the collector in his office and one copy transmitted to the Commissioner of Internal Revenue. Annual returns of withholding agents (including those of licensed agents) as to interest payments, and returns of withholding agents as to wages, salaries, etc., and of fiduciaries will be forwarded by the collector with his list, Form 23–B, on which the tax withheld is reported for assessment.

Certificates and returns to be forwarded as soon as received.

Art. 194. All certificates of exemption or deductions, filed by or on behalf of persons subject to tax, will be forwarded by the collector as soon as received; and all such certificates, reports, and returns, before being transmitted to the commissioner, will have stamped thereon the name and number of the district; will be arranged (unfolded) in alphabetical order and, in the case of corporations, according to the designated class to which they belong. Care should be taken to have all such papers,

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when so arranged, carefully secured by cord or other fastening, so as to insure their receipt in like order. This is especially necessary in view of the large number of like papers which will be forwarded from the various districts.

Reports and returns to be at once examined by collectors.

Art. 195. In order that assessment lists may be promptly prepared and forwarded, collectors will see that all reports and returns to be listed are examined as received, and that no delay occurs in this branch of the work. Special diligence in this matter is necessary, as sufficient time must be given for the reexamination of such returns in the commissioner's office before assessment is made. The forwarding of assessment lists, however, should in no case be delayed, beyond the time allowed, on account of unexamined returns, as such returns can be examined and reported on a subsequent list. As the law limits the time in which these assessments are to be made and notice of assessment given, collectors will assign to this work all available force in their respective offices.

Assessment lists to be prepared and forwarded wthout delay.

Notice to be sent to delinquents.

Art. 196. Where the required returns are not filed within the prescribed time, either by individuals or corporations, notice on Form 1045, should in each case be sent to the delinquent. (For authorized extension of time, see articles 23 and 173.)

Notice of assessment.

Art. 197. When assessment has been made, collectors will, on receipt of their returned lists, at once issue preliminary notices of assessment (Form 647), and where in any case the tax assessed is not paid on or before the 30th day of June, or in case of corporations designating their own fiscal year, within 120 days following the date on which the return should have been filed, notice and demand (Form 17) should be at once issued, and unless the tax in such case is paid within 10 days after the service of such notice, general demand for tax, penalty, and interest (Form 21) should at once be issued. Immediate notice and demand (Form 17) will, however, be served in case of failure to file the required return within the statutory period.

Demand for tax, penalty, and interest.

Notice of assessment to be sent immediately on return of list.

Art. 198. Pending assessment on returns forwarded to the commissioner, collectors will have prepared the necessary notices of assessment, with properly addressed envelopes, to be used immediately on return of their assessment lists.

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Payments, abatements, and outstanding balances.

Art. 199. Statements of payment, abatement, and outstanding balances of such assessed taxes will be rendered monthly by collectors on *special* Form 325. Such statements will be prepared in the same manner as required in the case of assessments on the *regular* Form 23, except that in Statement III the outstanding balances on the various lists will be reported in aggregate only. Items constituting such balances, however, will be carded by collectors, but only as to such as were assessed during the month for which the return is rendered, thus avoiding detailed statements each month of outstanding balances previously reported. A separate card (Form 1020) will be used for each such item; and all cards so prepared each month should be arranged alphabetically, and so forwarded by the collector with his report on special Form 325.

Outstanding balances to be carded by collectors.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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INDEX.

NOTE.—Regulations are indexed by article number; law indexed by page.

A.

	Article.
ABATEMENT:	
Claim for, of tax, may be filed when, by whom	33c
ABSENCE:	
From United States, who may make claim for deductions (Form 1008) for	33b
ADDITIONAL TAX:	
Nonresident alien subject to, computed same as for citizens of United States	8
Regulations for	2
ADDITIONS AND BETTERMENTS:	
Constituting increase in capital investment not deductible expense of corporation	118
ADJUSTMENT:	
Assessment of tax withheld, withholding agent to be notified	33c
ADMINISTRATOR:	
Is fiduciary when	70
Make return of income deceased person, when and what	17
AFFIDAVIT:	
Verifying return of income, before whom made	22
AGENT:	
Authorized, may sign for principal, certificate of ownership of bond	43
Compensated on commission basis, income of, not subject to withholding at source	32
Return made by, when	17
Signing for principal, certificate of ownership of bonds, to furnish evidence of authority to act, when	43
AGRICULTURAL ORGANIZATIONS:	
Exempt from tax	p. 12
ALIENS:	
Nonresident—	
Duly authorized agent of, to make return for and pay tax, when	8
Income of, what to be included in return of	8
Net income of, defined	8
Normal tax on entire net income of	8
Not allowed exemption under paragraph C	8
Not entitled to exemption under paragraph C	3
Subject to additional tax	8
Taxable on entire net income in United States	1
Tax on coupons or registered interest payable in United States to be withheld unless certificate of exemption (Form 1004) filed	46
Resident—	
Certificate of ownership of bond, when and how to be used, and to specify what	42
Income of, from coupon or registered interest, tax on to be deducted and withheld except to extent exemption claimed	44
Taxable on net income less exemption and deductions	1

Digitized by Google

AMENDMENTS: Article.
Sections 3167, 3172, 3173, 3176, Rev. Stat.....pp. 22-24
AMORTIZATION:
Depreciation for, corporation allowed, when, how..... 135
ANNUAL RETURN:
Form 1013, to show what, and to be filed on or before Mar. 1 each year.. 50
Of coupons or interest orders not accompanied by certificate of ownership (form of), what to show when filed, totals only of monthly return 53
Of licenses for collection of foreign items (form of) what to show, with whom filed, when..... 59
ANNUITY:
Money paid for (returned) not to be included in gross income..... 5
Taxable, how treated..... 63
ANSWER:
Of guardian, etc., to notice for failure to make return, may show what.. 18
APPEAL:
Decision of collector—
All papers of, to Commissioner of Internal Revenue; dissatisfied may submit case; furnish sworn testimony to prove facts..... p. 8
APPLICATION:
For license
For collection foreign items 55
To collect foreign items to be made through principal office to collector of district in which located principal office..... 57
APPLIED SURRENDER VALUES AND CONSIDERATION:
For supplementary contracts—
To be both added and deducted in return life insurance company.. 102
ARRANGEMENT AND PACKING:
Certificates, reports, returns, for forwarding by collector..... 194
ASSESSMENT:
Insurance company, reserve of, definition..... 147d
Of tax to be made by Commissioner of Internal Revenue..... 25
Against income withheld at source, where to be made..... 38
Against withholding agent..... 36
Form and notice of..... 197
List rendered, collector to forward..... 192
Amount of, when persons shall be notified..... pp. 8, 9
Basis of calendar year or fiscal year, time to be made..... 177
Failure to pay, extra tax on..... p. 9
Limitation on time of making..... p. 9
Made by Commissioner of Internal Revenue..... p. 8
Of tax against withholding agent, deferred until agent makes return... 189
Penalty and interest for nonpayment of, exceptions..... p. 9
Persons notified of amount of..... p. 9
When to be paid..... p. 9
ASSETS, CAPITAL:
Corporation—
Change in book value by annual adjustment on books, that value to be used in making annual returns, net income..... 111
Change in book value by reappraisal, gain or loss, how computed... 111
Profit or loss on sale of, how determined..... 110
Loss from sale of, how ascertained..... 128
Sale of corporation, net income from, how determined..... 109
Sale of by corporation, income from, how determined..... 108
Shrinkage in book value of corporation, how treated..... 134

Digitized by Google

ASSOCIATION: Article.
Charitable, exemption, when ... p. 13
Making false return, penalty for ... p. 12
Mutual, domestic building, etc ... p. 13
Neglecting to make return, penalty for ... p. 12
Net income of, preceding calendar year, normal tax on ... p. 12
Operating under "Lodge system," defined ... 89
Refusing to make return, penalty for ... p. 12
Religious, exemption ... p. 13
Return of, when available ... p. 21
Scientific, exemption, when ... p. 13
Taxes to be assessed by Commissioner of Internal Revenue, when, section 3176 ... p. 24
To make list or return of taxes, how, when, section 3173 ... pp. 22, 23
AUTHORS:
Earnings of, indefinite or irregular, not subject to withholding at source ... 32

B.

BAD DEBTS:
Corporation, deductible, when ... 125
Collected, are income ... 125
BALANCES:
Outstanding tax, how treated ... 199
BANKS:
Allowing interest on deposits, not to withhold tax from ... 67
Deductible status of taxes assessed against stockholder, paid by ... 154
Interest paid on deposits allowable deduction ... p. 20, art. 149
Taking coupons for collection, originated or payable in the United States, duty of ... 39
MUTUAL SAVINGS—
Having capital stock represented by shares, exempt from tax ... p. 12
BENEFICIARIES:
Exemption from tax may be claimed by, from fiduciaries ... 74
Interest received by, from insurance companies on insurance contract, part of gross income ... 5
BEQUEST:
Of property—
Income from part of gross income ... 4
Value of, not income ... 4
BOARDS OF TRADE:
Exempt, when ... p. 13
BOND:
May be required of licensee for collection of foreign items ... 56
BONDS, ETC.:
Of corporations, etc.—
Income from, subject to withholding at source, regardless of amount ... 37
Interest of foreign, subject to deduction and withholding, when ... p. 11
BOND AND MORTGAGES:
Interest on, subject to deduction, when ... p. 10
BOOKKEEPING:
Requisites of, for verifying return ... 182
BOOKS:
Of corporation subject to examination, by whom, for what, result ... 186

Digitized by Google

BOOK VALUE:
Capital assets— Article.
Change in, by reappraisal, gain or loss, how computed..... 111
Shrinkage in, how treated..... 134
BUILDING:
Removal of, corporation, not deductible loss, why..... 127
BUILDING AND LOAN ASSOCIATION:
Domestic, defined; what necessary to exempt from tax..... 87
BUSINESS:
Lawful, carried on for gain or profit; income from part of gross income.. 4

C.

CALENDAR YEAR:
To govern when notice of corporation fiscal year not given in time..... 168
CAPITAL ASSETS:
Book value of corporation, shrinkage in, how treated..... 134
Corporation—
Change in value of, by annual adjustment on books, that value used in making return annual net income..... 111
Change in book value by reappraisal; gain or loss, how computed... 111
Loss from sale of, how ascertained..... 128
Profit or loss on sale of, how determined..... 110
Net income from sale of, how determined..... 109
Sale of, by corporation, income from, how determined..... 108
CAPITAL INVESTMENT:
Corporation, increased by additions and betterments, not deductible expense..... 118
CEMETERY COMPANY:
Taxable status depends on what..... 90
CERTIFICATE:
Accompanying foreign items, disposition of, by licensee..... 61
Claiming deductions account partnership expense, what and how..... 47
Claiming exemption and deductions to accompany annual return of withholding agents..... 69
Claiming exemption—
As nonresident alien must be filed or tax withheld from payment coupon or registered interest..... 46
From tax on registered interest to be filed at least five days before due date of interest..... 44
Of withholding, by foreign organization, Form 1018..... 46
For nonresident alien, may be executed by whom..... 46
Exemption or deduction, disposition of..... 194
Form of, for foreign partnership composed of nonresident aliens, resident aliens, and citizens of United States..... 49
Of deposit, interest on, part of gross income..... 4
Of ownership accompanying coupons or registered orders, duty of collecting agency..... 39
Of ownership—
By corporations organized in United States claiming exemption, form of, and how executed..... 45
Disposition of, by collecting agent..... 40
Of persons not subject to having tax withheld, disposition of, by debtors and withholding agent..... 51
Not accompanying coupons or interest orders, tax to be withheld by first collecting agent, disposition of certificate..... 52

Digitized by Google

CERTIFICATE—Continued.
Of ownership—Continued.
Of bonds— Article.
By citizen or resident of United States, when and how to be used and to specify what 42
By corporations organized in United States and certain exempt, must be filed to prevent withholding 45
May be signed by authorized agents 43
Of corporations, etc., organized or doing business in United States, form of, for foreign partnership 48
Signed by agent, when verified by first withholding agent, etc., good in all other hands 43
Who to make and for what 39
Size of and paper for ..... p. 27
Substitute by collecting agent, how to be treated by debtors or withholding agent 51
That of collecting agent substituted when 40
CERTIFICATES, REPORTS, RETURNS:
Arrangement and packing of, for forwarding by collector 194
CHAMBERS OF COMMERCE:
Exempt, when ..... p. 13
CHANGE IN BOOK VALUE:
Capital assets, corporation, reappraisal, gain or loss, how computed 111
CITIZEN:
Income of, from coupon or registered interest, tax to be withheld on except to extent exemption claimed 44
Of United States, certificate of ownership of bond, when and how to be used and to specify what 42
Taxable on net income less exemption and deductions 1
CIVIC LEAGUES:
Exempt, when ..... p. 13
Organizations—
Exempt, when ..... p. 13
CLAIM:
For exemption—
By whom, for what, who to file 41
Paragraph C, in connection with foreign item, allowed to person entitled to 60
Penalty for false ..... p. 10
What must show and how executed 42
When, and when to be filed ..... p. 10
Insurance company, amount actually paid under policy contract, constitute deduction 147c
COLLECTING AGENCY:
First receiving coupons or interest orders not accompanied by certificates of ownership should withhold tax and attach its certificate, Form 1002, that tax withheld 52
Agent—
In foreign countries to have privilege of substituting certificates for original ownership 40
Record to be kept by, what 40
Should require person presenting coupon or interest orders to establish identity 52

Digitized by Google

	Article.
COLLECTION:	
Of tax from withholding agent	36
COLLECTOR:	
Advanced preparation notice of assessment by, particulars	198
Arrangement and packing certificates, reports, returns	194
Authority of, in any district, section 3173	p. 24
Claim for deductions may be filed with, when	33c
Dispatch of business in offices of	195
Duty of—	
As to returns withholding agents	193
If persons refuse or neglect to render return	p. 23
In absence from home or place of business	p. 23
In case of refusal or neglect of liable individual to make return	21
In case of undervaluation or understatement	p. 23
In forwarding—	
Annual individual return to commissioner	24
Return and assessment list and investigation of return	192
In making returns for persons failing to do so	p. 23
Upon receiving notice of fiscal year of corporation	167
Failure to find person at home, duty of, section 3173	p. 23
Sickness or absence, may extend time for making returns, section 3176	p. 24
Legality of returns made by, section 3176	p. 24
Make return for individual, when	20
May enter any collection district to examine witnesses, when, section 3173	p. 24
Method of handling and accounting for outstanding tax balances	199
Must require returns to be verified by oath or affirmation	22
Not satisfied with responsibility, applicant for license to collect foreign items, may require bond	56
Of what district, Form 1008 to be filed	33b
Order of arrangement, names in list made by	188
Shall make report of false or fraudulent returns, how, section 3176	p. 24
Shall require deputies to ascertain persons liable to tax, section 3172	p. 22
Tax statement rendered monthly, particulars of	199
Tax withheld to be paid to	34
To adjust in assessment in case of withholding, when	33c
To furnish withholding agent with statement of claim for deductions filed with collector	33c
To obtain testimony, may summon whom, section 3173	p. 24
To report tax due, how, forms for	187
To send notice of what, form of and time to serve	197
To send notice to delinquent and file return	196
To which, application of principal office made for license for branch office, to serve collector in district of branch with what	57
When claim for deductions, paragraph B, to be filed with	33b
COMMISSIONER OF INTERNAL REVENUE:	
Annual return of individual to be forwarded to, how	24
Assessments made by	p. 8
Facsimile of signature on licenses for collecting foreign items furnished collectors	55
Shall add 50 per cent or 100 per cent to tax, when	p. 24
Shall assess taxes, when, section 3176	p. 24
To impose additional tax, when	p. 9

Digitized by Google

	Article.
COMMISSIONER OF INTERNAL REVENUE—Continued.	
To issue licenses for collection of foreign items through collectors	54
To make assessment of taxes; give notice of, when; duty of in case neglect or refusal to make return or of false or fraudulent return	25
COMMISSIONS:	
Paid to salesmen in stock of corporation, deductible expense, when	117
COMPANY:	
Foreign, normal tax on business transacted in United States	p. 12
Joint-stock, etc., withholding normal tax on behalf of others	p. 9
Mutual cemetery, exempt when	p. 13
Taxes to be assessed by commissioner, when, section 3176	p. 24
COMPENSATION:	
For personal service, part of gross income	4
Officers and employees of State or political subdivision of, not to be included in gross income	5
Paid to employees of corporation on basis of stockholdings not deductible, why	119
Present President and judges of court exempt from tax, what	5
Public-school teachers of State or political subdivision of, not part of gross income	5
CONSIDERATION FOR SUPPLEMENTARY CONTRACTS AND APPLIED SURRENDER VALUES:	
To be both added and deducted in return life insurance companies	102
CONSTRUCTION OF LAW:	
As to withholding at source, liberal	p. 27
CONTRACT:	
Affecting liability of a taxable person as such, to be invalid	27
COPIES OF RETURNS:	
How obtained, for what purpose	178, 180
CORPORATION:	
Additions and betterments constituting increase in capital investment not deductible	118
All organized in United States subject to tax (certain exceptions)	76
Amount allowed for depreciation of property	p. 18
Amounts paid employees—	
As compensation on basis of stockholdings not deductible, why	119
For pension or on account injuries, deductible expense	120
Assessment—	
Insurance company, reserve, definition	147d
To be paid when	p. 20
Bad debts deductible, when	125
Banks, etc.—	
Interest paid on deposits, etc., allowable deduction	149
Paying taxes assessed against their stockholders, deductible status of	154
Books of, subject to examination, by whom, for what, result	186
CEMETERY, taxable status depends on what	90
Certificates of ownership by claiming exemption, form of and how executed	45
Change in book value of capital assets by annual adjustment on books, that value to be carried into return	111
Change in book value of capital assets by reappraisal, gain or loss, how computed	111
CHARITABLE, exempt, when	p. 13

Digitized by Google

	Article.
CORPORATION—Continued.	
Classes, enumeration of	162
Collector to furnish blanks for return of	163
Collecting foreign income, to have license	p. 11
Commissions to salesmen paid in stock, deductible expense when	117
Complete return to be made by or will not be accepted	163
Contract with by State, etc., prior to passage income-tax act, income from accruing to individual, subject to tax	93
Contract with by State, etc., prior to passage income-tax act, income from accruing to State, etc., exempt from tax when	93
Cost of buildings on leased ground, deductible as rent, when	115
DAIRIES, cooperative, not subject to tax, what	92
Deductible loss defined	124
Deduction account interest on indebtedness limited to what, when	81
Deduction—	
Account materials and supplies on hand, what	123
For depletion of mines regulation and rate of, limit of	142
For depreciation of natural deposits, basis and limit of	141
For depreciation on patent, what, how determined	137
For depreciation on timberlands, limit of, excess of, is income	140
For interest paid at different rates, rule of application	151
For obsolescence of patents, what, how determined	138
Defined	78
Depreciation timberland from removal of timber, amount, how determined	139
Depreciation—	
Deductible, amount, how treated	130
Defined	129
For amortization allowed, when, how	135
How determined	129
Reserve, use of, disposition excess of	132
Division of depreciation of reserve, correction	133
Donation for charitable purposes, deductible when	121
Duties not deductible as tax but item of cost	155
Educational, exempt, when	p. 13
Engaged in more than one class of business, gross income ascertained in accordance with applicable definitions of such income	112
Every, not specifically exempt, required to make return of income	80
Evidence requisite for allowance of deductions	158
Excise and income tax for 1913 in one return	191
Excise tax on, for what period, how computed	160
Exempt from tax, what are	87
Expense of operation and maintenance to be shown in return	p. 18
Includes what	114
Failure to receive blanks will not excuse from making returns, or from penalties for such failure	163
Firms, etc., withholding normal tax on behalf of others	p. 9
Fiscal year of, how established, what to do	165
Illustration of and what to do	166
FOREIGN, normal tax on business in United States	p. 12
Coupons, checks, bills of exchange, etc., normal tax deducted from, when	p. 11
Dividends on stocks of, normal tax deducted when	p. 11

Digitized by Google

CORPORATION—Continued.

FOREIGN—Continued. Article.

Having more than one branch office in United States to designate principal office and person to make return 83

Interest on indebtedness to be deducted, what p. 20

To give amount of bonded and other indebtedness p. 18

To set forth paid-up capital stock p. 18

Form of return prescribed for 163

General expense foreign steamship companies, how treated 116

Gifts or gratuities to employees not deductible 120

Good will, depreciation not allowed in connection with 136

Gross income—

Definition of 96

General definition 107

Gross value at the mines, definition of 142

In addition to deduction for depletion of mines, etc., deduction for depreciation of plant, what, basis of 143

Income—

Excepted during the year 15

From sale of capital assets, how determined 108

How ascertained p. 14

Losses from p. 14

INSURANCE COMPANY—

"Deductible net addition to reserve," definition; what basis of computation of; what not to be included in 147d

Deduction, claims actually paid under policy contract 147c

Depreciation loss by shrinkage in property value, what and when deductible 147b

Gross income of, definition of 97, 101

Losses, deductions for, what 147a

Reserve to meet losses, how treated 147c

Salvage, how to be treated in return of 147c

Interest paid—

As rental, how treated 148

By, on mortgage on property in which corporation has equity or is purchasing 148

Deduction, what, when 148

On debts secured by collateral subject to sale, deductible, when, why 150

On deposits, etc., deductible, when 113

Inventory, purpose and use of; kinds of 161

Leased, to make its own return 82

Leasing oil or gas territory, deductions for depletion, basis of 144

Lessee, property of, assuming indebtedness of lessor, return by lessee, what 81

Lessee, not to include capital stock or debts of lessor in return, except 82

LIFE INSURANCE COMPANY—

Applied surrender values and consideration for supplementary contracts both added and deducted in return 102

Deductions from gross income, what 100

Gross income, definition of 101

Supplementary statement attached to return of, showing what 103

Liquidation of, make final return of what; filed when and where 85

"Lodge system," defined 89

Digitized by Google

CORPORATION—Continued.

	Article.
Loss—	
Actual, sustained	p. 14
Sustained during year	p. 18
From removal of buildings, not deductible, why	127
From sale of capital assets, how ascertained	128
Securities below par, how treated	135
Making false return, penalty for	p. 12
May designate day to pay tax	p. 17
Manufacturing company, gross income, definition	104
Mercantile company, gross income, definition	105
Miscellaneous, gross income, definition	106
Mutual companies making return, definition of net income	80
Mutual fire insurance company—	
Gross income, definition	98
Supplementary statement attached to return, showing, what	103
Mutual marine insurance company—	
Deductions from gross income, what	99
Supplementary statement attached to return of, showing what	103
Will deduct, what	147d
Neglecting to make return, penalty for	p. 12
Net income—	
Annual, normal tax on	p. 12
Engaged in more than one class business, how ascertained	113
For 1913, how ascertained	159
Preceding calendar year, normal tax on	p. 12
Of, should be what	158
Of, which is distributable to owners thereof; subject to tax	79
From all sources	p. 14
From sale of capital assets, how determined	109
To be shown on return	p. 20
No specific exemption from tax	160
Notice—	
Given of assessments made	p. 20
Of fiscal year, not retroactive	169
Not receiving blank for making return, should make application for, to whom, when	163
Not to include taxes paid in foreign countries in income; see seventh deduction	p. 20
Officers of, making false return, penalty	p. 12
Only one return and assessment for 1913	160
On what taxed; what, and amount of	p. 12
Operating mines, oil or gas wells, on royalty basis, not allowed, deduction for depletion of deposits	145
Operations of, etc., unlawful to divulge. Section 3167	p. 22
Organized—	
During the year, to make return of what	84
Elsewhere than in United States, subject to tax on what	77
In United States and certain exempt, interest on bonds payable to, tax not to be withheld if certificate of ownership filed	45
Paid-up capital stock, definition of	95
Partnership—	
Limited, is, and subject to corporation tax	86
Ordinary, not subject to tax as	94

Digitized by Google

CORPORATION—Continued. Article.
Payments on account of tax from covenant in bonds, not deductible in ascertaining net income ... 113
Penalty for—
Failure to
Make return ... p. 20, Art. 163
Pay tax by June 30 ... p. 20
Refusal to make return ... p. 12
Profit or loss on sale, capital assets, how determined ... 110
Public utility, governmental function, income accruing through, to State, exempt from tax ... 93
Railroad whose income paid by its lessee direct to stock holders must make return of income ... 80
Religious, exempt ... p. 13
Repairs may be deducted, what ... 131
Reserve for—
Insurance of own property not deductible ... 122
Losses, not deductible ... 126
Taxes, not deductible ... 156
Return—
For 1913 must be on new form and not on excise form heretofore used. 172
To be made, when ... 190
When available ... p. 21
When State officers may have access to ... p. 21
When to be made. Section 3173 ... p. 22
Shrinkage in value, capital assets, how treated ... 134
Special excise tax, how computed ... p. 26
Status for taxation purposes to be established, how ... 88
Subject to tax—
Classes enumerated ... p. 12
Normal only, but on entire net income ... 185
Special excise, under act August 5, 1909 ... p. 26
Taxable status in doubt, must make return and attach thereto statement showing what ... 91
Tax—
Computed on net income of ... 159
Deduct amount paid for ... p. 20
Paid by—
Constitute deduction, when ... 152
When not deductible ... 153
To be assessed by Commissioner of Internal Revenue, when. Section 3176 ... p. 24
To give notice, day designated for return ... p. 17
Make list or return, how, when. Section 3173 ... pp. 22, 23
Unearned increment, not value for depreciation purposes ... 146
United States, filing certificates of ownership, exempt from withholding of foreign items ... 60
When to make return ... p. 17
COST:
Of buildings on leased ground, deductible as rent of corporation, when ... 115

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D.

	Article.
DAIRIES:	
Cooperative, not subject to tax, what	92
DEBTOR:	
Annual—	
List return by, when and what	50
Return by, to show totals only of monthly list return	51
Definition of	38
How to treat substitute certificate of collecting agent and certificate of owner not subject to having tax withheld	51
Interest on bonds due, corporations organized in United States and certain exempt, not to withhold tax if certificate filed	45
Maker of note given in payment of interest held responsible for tax on	68
May appoint withholding and paying agent to act for it	38
Note given in payment of income, maker of note is	68
Not to withhold against nonresident alien or foreign organization doing business in United States, when	46
Not to withhold when receiving certificate of collecting agent that tax withheld by same, disposition of certificate	52
Return of withholding by, where to be filed	38
In United States (or its withholding agent) charged with duty of withholding from coupons or registered interest	39
In United States, duty of, before payment of registered interest	41
When source for withholding purposes	31
"DEDUCTIBLE NET ADDITION TO RESERVE":	
Insurance company; definition; what basis of computation of; what not to be included in	147d
DEDUCTION:	
Account partnership expense, account of and form for claiming	47
Additions and betterments constituting increase in capital investment, not	118
Allowance for in computing, what, when	p. 5
Amount of, to ascertain net income	p. 5
At source, applies to normal tax only	p. 12
Bad debts of corporation, when	125
Basis, for depletion leased oil or gas territory	144
Claims for—	
Filed with collector, withholding agent to be furnished statement of	33c
May be filed with withholding agent, when	33c
Not allowed unless made, when	p. 10
Commission to salesmen paid in stock of corporation is, when	117
Compensation, officers and employees of State, etc., except, when; judges Federal courts now in office; present President for present term	p. 6
Compensation paid employees of corporation based on stockholding, not, why	119
Corporation—	
Account interest paid on debt, limited to what, when	81
Materials and supplies on hand, what	123
Depreciation, amount, how treated	130
Donations for charitable purpose, when	121
Evidence requisite for allowance of	158
For interest paid at different rates, rule of application	151
Gifts or gratuities to employees, not	120
Pensions and damages for injuries to employees, are	120

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DEDUCTION—Continued.
Corporation—Continued.
Reserve— Article.
For insurance its own property, not.... 122
To meet losses insurance companies, not.... 147c
Status of tax for, to bank, assessed against stockholder, paid by bank.. 154
And exemptions in certain cases.... p. 11
Debts due taxpayer, ascertained worthless and charged off in year.... p. 5
Depletion of mines, regulation of rate of, limit of.... 142
Depreciation—
Defined.... 129
For amortization, allowed when, how.... 135
How determined.... 129
Loss by shrinkage in property value, insurance company, what and when.... 147d
Reserve, how, disposition excess of.... 132
Of good will not allowable.... 136
Of natural deposits, basis and limit of.... 141
Of plant (in addition to deduction for depletion of mine), what, and basis of.... 143
On patent, what, how determined.... 137
Unearned increment, not value for purpose of.... 146
Timberland—
Limit of, excess of, is income.... 140
Removal of timber, amount, how determined.... 139
Dividends on stock, what, when.... p. 5
Exemption under paragraph C, not allowed nonresident alien.... p. 6, Art. 8
False statement in regard to, penalty.... p. 10
From gross income—
Mutual marine insurance companies, what.... 99
Of nonresident alien, what.... 8
To ascertain net income, for normal tax, paragraph B, what.... 6
From net income to ascertain taxable, exemption, paragraph C 6
From premiums, etc., by whom made, when.... p. 9
For ascertaining net income, what.... 3
For fire, storm, shipwreck.... p. 5
Foreign corporation, to ascertain net income.... 157
For expense of business, partnership may claim, when and how 14
For restoring property, etc., none.... p. 5
Increase value of property, none.... p. 5
Insurance company—
Claims actually paid under policy contract, are.... 147c
Losses, what.... 147a
Interest on obligations, State or political subdivision of, and of United States or possession.... p. 6
Interest paid by—
Bank, etc., on deposits, etc., is.... 149
Corporation—
As rental, not allowable.... 148
Is, what, when.... 148
On indebtedness secured by collateral subject to sale, when, why. 150
On mortgage on property in which corporation has equity, is and amount of.... 148

Digitized by Google

	Article.
DEDUCTION—Continued.	
Joint-stock company	pp. 5,6
Life insurance company—	
From gross income, applied surrendered values and consideration for supplementary contracts	102
From gross income, what	100
Loss—	
During year	p. 5
Which corporation may make, defined	124
From removal of building not deductible, why	127
From sale—	
Capital assets, how ascertained	128
Corporation securities below par, how treated	135
May be claimed account tax on note given in payment of income	68
Only, claim for, may be filed with collector, when	33c
Mutual marine insurance company, what	147d
Not compensated by insurance or otherwise	p. 5
Notice to be filed for	p. 10
Obsolescence of patents, what, how determined	138
Paid for new buildings, none	p. 5
Paragraph B—	
For normal tax only, 7 and 8 included for purpose of additional tax	6
May be claimed in case of fixed, determinable annual income	66
Not claimed of withholding agent in time, only remedy, application for refund	33c
When claim for (Form 1008), to be filed with withholding agent or collector	33b
Permanent improvements or betterments, none	p. 5
Property owned, business carried on in United States, person residing elsewhere, what	p. 6
Repairs, when	131
Reserve for losses, not	126
Single person, amount allowed	p. 6
Tax withheld, when	p. 5
Taxes paid by corporation—	
Are, when	152
When not	153
To ascertain net income corporation engaged in more than one class of business	113
DEEDS OF TRUST, ETC.:	
Corporation, income from, subject to withholding at source regardless of amount, when	p. 10, Art. 37
DELINQUENT:	
Tax becomes, if not paid by June 30	25
DEPLETION:	
Deduction for, mines, oil or gas wells operated on royalty basis, not allowed operating corporation	145
Leased oil or gas territory, basis for deduction for	144
Of mines, etc., regulation of rate of deduction for, limit of	142
DEPOSIT:	
Certificate of, interest on, part of gross income	4
Interest on, not subject to withholding; must be included in personal return whether paid or not	67
Interest on, part of gross income	4

Digitized by Google

	Article.
DEPRECIATION:	
Corporation, defined	129
Deductible, amount how treated	130
Deduction for—	
Of natural deposits, basis and limit of	141
Of plant (in addition to deduction for depletion of mine), what, and basis of	143
On patent, what, how determined	137
Diversion reserve for, correction	133
For amortization, allowed when, how	135
Gross value at the mine, defined	*6
How established in case of mines	6
Loss by shrinkage in property value, insurance company, what, and when deductible	147b
Of good will not allowable deduction	136
Timberland—	
From removal timber, amount, how determined	139
Deduction for, limit of, excess of is income	140
Unearned increment, not value for basis of deduction for	146
DEPRECIATION RESERVE:	
Use of, disposition excess of	132
DEPUTY COLLECTOR:	
Ascertain persons liable to tax and enumerate objects, section 3172	p. 22
Legality of returns made by, section 3176	p. 24
To make report, false or fraudulent return, how, section 3176	p. 24
DESCENT:	
Of property—	
Income from, part of gross income	4
Value of, not income	4
DEVISE OF PROPERTY:	
Income, part of gross income; value of, not income	4
DISPATCH OF BUSINESS:	
In collector's office	195
DISTRICT OF COLUMBIA:	
Exemptions, proviso	p. 13
DIVERSION:	
Depreciation reserve, correction	133
DIVIDENDS:	
Compensation paid employees of corporation based on stockholding are, when	119
Cooperative dairies, is purchase price of raw material	92
Of corporations subject to tax not subject to withholding	p. 9, Art. 32
Deducted from net income, when	3
Part of gross income	4
Stock foreign corporations, subject to withholding when	p. 11
Stock subject to tax—individual owning, how treated	p. 8
DOCTORS:	
Fees of, indefinite or irregular not subject to withholding	32
DONATIONS:	
By corporation for charitable purpose, deductible when	121
DOMESTIC BUILDING AND LOAN ASSOCIATION:	
Definition, what necessary to exempt from tax	87
DUE DATE:	
Return on Sunday or legal holiday, effect of	176
DUTIES:	
Not tax and not deductible but are item of cost	155

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E.

EDUCATIONAL CORPORATIONS: Article.
Exempt, when ... p. 13
EMPLOYEES:
State or political subdivisions, compensation of officers and employees paid by, not part of gross income ... 5
State officers or employees, compensation paid by United States a part of gross income ... 5
ENDOWMENT:
Money paid for; returned, not to be included in gross income ... 5
EVIDENCE:
Furnished by agent of authority to sign ownership certificate to be retained by verifying agent ... 43
Guardian, etc., served with notice for failure to make return, may furnish, what ... 18
Of nonliability to payment of tax, filed with withholding agent, may be forwarded to collector in lieu of tax ... p. 27
Requisite for allowance of deduction by corporation ... 158
EXCISE AND INCOME:
Tax, corporation, 1913 in one return ... 191
EXCISE TAX:
Corporation, for what period, how computed ... 160
EXECUTOR:
Is fiduciary when ... 70
Make return of income of deceased within taxable year, when and what. 17
EXEMPT:
From tax—
Corporations, what ... 87
Cooperative dairies, what ... 92
Income from public utility ... 93
EXEMPTION:
Allowed in computing taxable income of deceased person, when ... 17
Amount allowed married person ... p. 6
Beneficiary may claim from fiduciary ... 74
Boards of trade, when ... p. 13
And deductions ... p. 11
Cemetery company, depends on what ... 90
Certificate claiming by corporation organized in United States form of and how executed ... 45
Certificate claiming, what must show and how executed ... 42
Chambers of commerce, when ... p. 13
Charitable associations, when ... p. 13
Civic leagues or organizations, classes of, when ... p. 13
Claimed by fiduciary, forms 1015 or 1019 ... 70
Claimed for—
By whom, with whom and when to be filed ... p. 10, Art. 41
How to be filed ... p. 10
May be filed with withholding agent when ... 33c
Under paragraph C—
Allowed to person permitted to claim ... 60
Failure to claim, effect of ... 65
Corporation claiming—
To establish rights to, how ... 88
Whose taxable status in doubt, must make return and attach statement showing what ... 91
District of Columbia, provisions ... p. 13

Digitized by Google

	Article.
EXEMPTION—Continued.	
Domestic building and loan associations	p. 13
Educational corporation, when	p. 13
False claim or statement as to, penalty for	33a
Fraternal societies	p. 13
Husband and wife—	
Living together, citizen or resident alien, add incomes for purpose of, amount of	10
Separated and living permanently apart, citizen or resident alien, each entitled to $3,000	10
Individual—	
Deduction of from net income to ascertain taxable	3
Amount of for 1913	7
Single, or married but not living with husband or wife, may claim $3,000 each	9, 10
May be claimed, note given in payment of income	68
Mutual cemetery companies	p. 13
None for corporations	160
Paragraph C—	
Not allowed nonresident alien	8
Not claimed of withholding agent in time, only remedy application for refund	33c
To be filed with withholding agent when	33
Philippine Islands	p. 13
Porto Rico	p. 13
Public utility	p. 13
Religious associations and corporations	p. 13
Scientific associations when	p. 13
Status of person claiming determined as of time of claim	10
To be deducted from net income to ascertain taxable under paragraph C	6
EXPENSE:	
Deductible, pension or amounts paid employees account injuries are	120
General, foreign steamship companies, how treated	116
Of operation and maintenance corporate business, what includes	114
Partnership may claim deduction for, when and how	14
EXTENSION:	
Time for filing return, when, what, how	23
To make return, not exceed what, how and to whom made	173
FALSE RETURNS:	
Additional tax imposed	p. 9
Or fraudulent, penalty	p. 21
FIDUCIARY:	
Annual return by, what to show and how executed	73
Definition of	70
Filing notice with other withholding agent (Form 1015), nothing to be withheld	70
Having withheld and paid tax on undistributed annual net income not to again withhold when distribution made	75
Income of beneficiary not distributed during the year; what to be shown in return; tax to be withheld and paid when	74
May be appointed agent or attorney for the purpose of making personal return of income (Form 1040) for beneficiary	72
Optional claim (Form 1015 or 1019)	70
Regulations as to	70–75

Digitized by Google

FIDUCIARY—Continued. Article.
Return by must be made when 71
Return by to include only matter within scope of authority 72
Return of not to include income on which tax paid 71
Return, when to be made 190
To make annual return (Form 1041) to collector of district when, to show what 71
FIRM:
To make return, how, when, section 3173 ..... pp. 22, 23
Collecting foreign items, license required ..... p. 11
FISCAL YEAR:
Corporation—
Duty of collector upon receiving notice of 167
How established, what to be done 165
Illustration of and what to do 166
Making return on basis of but not so designating, return not accepted and must be made for calendar year 171
Notice of not retroactive 169
Notice to collector not given in prescribed time, calendar year to govern 168
Not properly established, return to be made for what calendar year and filed when 170
FOREIGN:
Corporation—
Doing business in United States—
Provision for ..... p. 15
Return by ..... p. 19
Particulars of ..... p. 18
Where filed ..... p. 17
Subject to tax on what 77
Tax on net income; net income defined; deductions to ascertain 157
Items—
Too small for notation on, statement of facts may be attached to 58
License required for collection of, when and from whom 54
Provisions for collection of tax on apply wherever said items payable, if paid in United States 61
Income paid in United States, provisions for collection of tax on 54–62
Organization doing business in United States subject to tax but exempt from withholding upon filing certificate claiming (Form 1018) 46
Partnership owning bonds of corporations organized or doing business within United States, not subject to withholding on interest of, when 48
Payments of dividends, etc., provisions as to collection, license, penalty. p. 11
Steamship company, general expense of, how treated 116
FRAUDULENT RETURN:
Additional tax imposed; time limit for paying after notice ..... p. 9

G.

GAINS:
For taxable purposes arising or accruing within calendar year, part of gross income, what 4
GAS OR OIL TERRITORY LEASED:
Corporation, basis of deduction for depletion of 144
GAS OR OIL WELLS AND MINES:
Operated on royalty basis, deduction for depletion of deposits not allowed operating corporation 145

Digitized by Google

GIFT: Article.
Of property, income from part of gross income; value not income 4
To employees of corporation not deductible 120
GOVERNMENTAL FUNCTION:
Income accruing to State from exercise of, exempt 93
GOOD WILL:
Corporation, depreciation of, not allowable deduction 136
GRATUITIES:
To employees of corporation not deductible 120
GROSS INCOME:
Corporation—
Definition of 96
Engaged in more than one class business, ascertained in accordance with applicable definition each class 112
General definition of gross income 107
Manufacturing company, definition of 104
Mercantile company, definition of 105
Miscellaneous corporation, definition of 106
All sources to be specified ..... p. 7
Definitions 3, 4
Deductions from—
By mutual marine insurance companies, what 99
To ascertain net income for normal tax, paragraph B 6
Insurance company, definition of 101
Life insurance company—
Definition 101
To include applied surrender values and consideration for supplementary contracts 102
Of nonresident alien, what constitutes 8
What to be excluded in computing 5
GROSS VALUE AT THE MINE:
Defined 6
Corporation, definition 142
GUARDIAN:
Is fiduciary, when 70
Return made by, when, regulation ..... p. 7, 17

H.

HOLIDAY:
Due date of return falling on, effect of 176
HORTICULTURAL ORGANIZATIONS:
Exempt ..... p. 12
HUSBAND:
Assumed to have sufficient knowledge of income of wife to make return for 10
Having net income other than wife's income from separate estate so that aggregate income both more than $4,000, wife return attached to husband or his income included in her return for purpose of $4,000 exemption 10
Should make return of income for self and wife 10
HUSBAND AND WIFE:
Combined net income of, exceeds $4,000, return of must be made 10
Both jointly and separately liable for return and payment of tax 10

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HUSBAND AND WIFE—Continued. Article.
Not living apart, having separate estates, income of both may be made on one return, but return must show income of each separately stated with name and address of both ... 10
Living together, citizen or resident alien, entitled to $4,000 exemption from their aggregate net income ... 10
Separated and living permanently apart, citizen or resident alien, each entitled to $3,000 exemption from net income ... 10
HUSBAND OR WIFE:
Either having net income of $3,000, return required, and must include incomes of both ... 10
IDENTITY:
Persons presenting coupons or interest orders should be required to establish ... 52
INCOME:
Additional tax on, referred to as additional tax ... p. 3
Amount from which withholding to be had ... 32
Banks, interest paid on deposits by, to be deducted ... p. 20
Bonds or other indebtedness ... p. 15
But not value of property, acquired by gift, bequest, devise or descent ... p. 5
Compensation of officers and employees of State or political subdivision of, paid by United States, part of gross income ... 5
Corporation—
Allowance for depreciation by wear and tear ... p. 14
Amount allowed for—
Depreciation ... p. 18
Taxes ... p. 20
Bad debts collected are ... 125
How ascertained ... p. 14
From sale of capital assets, how determined ... 108
Interest paid deductible ... p. 20
Losses sustained during the year ... p. 18
May designate fiscal year ... p. 17
Ordinary expenses of operation deductible ... p. 18
Penalty for failure to—
Make return of ... p. 21
Pay tax on after June 30 ... p. 21
To give notice of fiscal year adopted ... p. 17
Deductions from gross, mutual marine insurance company, what ... 99
Derived from all sources ... p. 13, Art. 14
Fixed determinable annual—
From what derived ... 63
Normal tax on bonds, etc., when deducted ... p. 10
Withholding from, when ... 64
Foreign corporation doing business in the United States, return of, particulars ... pp. 15, 17, 19
Foreign, paid in United States, provisions for collection of tax on ... 54–62
For taxable purposes—is income for calendar year ... 4
For 1913, how computed ... p. 17
From all sources part of gross income ... 4
From bonds, mortgages, deeds of trust, and similar obligations of corporations, etc., subject to withholding at source regardless of amount ... 37
From capital invested in the United States ... p. 18
From certain professions not subject to withholding at source ... 32

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INCOME—Continued. Article.
From public utility or governmental function accruing to State, etc., exempt from tax ... 93
From what, obligations not subject to tax and certificate of ownership not required ... 37
Gross, defined ... 3, 4
Corporation—
Engaged in more than one class of business, ascertained in accordance with applicable definition for each class ... 112
Definition of ... 96
General definition ... 107
Insurance company, definition of gross income ... 97, 101
Life insurance company, to include applied surrender values and consideration for supplementary contracts ... 102
Manufacturing company, definition ... 104
Mercantile corporation, definition ... 105
Miscellaneous corporation, definition ... 106
Mutual fire insurance company, definition ... 103
What to be included in computing ... 5
Husband and wife, what ... 10
Individual, not subject to withholding when ... 32
Insurance company, to be separately stated ... p. 18
Insurance reserve, how treated ... p. 17
Interest—
Accruing during year ... p. 16
On deposits ... p. 15
On obligations of State, etc ... 5
Joint stock companies, how ascertained and stated ... pp. 14, 15, 18
Life insurance companies, what included, deductions ... pp. 14, 19, Art. 100
Mutual fire insurance companies ... pp. 14, 18, 19
What taxable ... 98
Mutual marine insurance companies ... pp. 18, 19
Net—
Defined ... 3
Of corporation engaged in more than one class of business, how ascertained ... 113
Deductions allowed for ascertaining ... p. 5
Shall include what ... pp. 3, 4, 13, 14, 15, 16, 17, 20
Not subject to withholding at source, to be covered in personal return ... 32
Note given in payment of; maker of note is debtor and source; required to withhold, except, when ... 68
Of corporations, verified how ... 183
Returns of, filed, are public records; inspection of, who may and for what purpose ... p. 21
Penalty for divulging information on or exhibiting returns, section 3167 ... p. 22
Tax paid at source, deducted in ascertaining taxable ... 3
On, from coupon or registered interest to be deducted and withheld, except to extent exemption claimed ... 44
Taxable—
Defined ... 3
Persons subject to ... 1
For normal tax, what, how ascertained ... p. 3, Art. 7

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	Article.
INCOME—Continued.	
Subject to additional tax	p. 3
What not liable to withholding at source	32
Withheld, what, when, by whom	p. 9
INDIVIDUAL:	
Who may claim exemption paragraph C	9, 10
Duty of, collection interest coupons originating in United States	39
Husband and wife living together, citizen or resident alien, exemption $4,000	10
Income accruing to, from contract with State, etc., prior to passage of act for construction, operation, or maintenance, public utility, taxable	93
Income less than $20,000 required to make return, except when	19
Income of, liable to withholding at source on and after November 1, 1913	29
Liable for income tax on share of net earnings of partnership	47
Married and not living with husband or wife, amount exemption	9
Normal tax, what	1
Partnership profits included in return of and tax paid, not reported as income again	14
Residing in foreign country, where to file return	15
Return—	
For calendar year	4
Required of guardian, etc., notice of failure to make, served when	18
When to be made	190
Share of earnings, partnership, property of, subject to tax chargeable to individual	94
Share of partnership profits to be included in personal return	13
Single, allowable exemption for	9
Status for claiming exemption, determined as of time of claim	10
INFORMATION:	
From returns to officers of State, when, what, how	179
INSANE:	
Who make claim for deductions for	33b
INSPECTION:	
Of returns, how	178
INSURANCE COMPANY:	
"Deductible net addition to reserve"; definition; what basis of computation of; what not to be included in	147d
Deduction, claims actually paid under policy contract	147c
Depreciation loss by shrinkage in property value, what and when deductible	147b
Gross income, definition	97, 101
Income to be stated separately	p. 18
Losses—	
Actually sustained	pp. 14, 19
Deduction for what	147a
Making false return, penalty	p. 12
Mutual marine, deduct what	147d
Neglecting to make return, penalty	p. 12
Net addition to reserve	p. 18
Net income, source, time of accrual, return of	pp. 12, 14, 20
Notice of assessments to	p. 20
Penalty for failure to pay tax	p. 21
Refusing to make return, penalty	p. 12

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INSURANCE COMPANY—Continued. Article.
Reserve—
Definition ... 147d
Fund, how treated ... p. 17
To meet losses, how treated ... 147c
Returns of, when available ... p. 21
Salvage, how treated in return of ... 147c
Special excise tax, how computed, time, what ... p. 26
To make return of others, when ... p. 9
INSURANCE:
Life—
Paid to beneficiaries not to be included in gross income, when ... 5
Payment credited to insurance not to be included in gross income, when ... 5
Received by insured not to be included in gross income, when ... 5
INTEREST:
Coupon or registered, originating or payable in the United States, who to withhold ... 39
From what obligation not subject to tax and certificates of ownership not required ... 37
How treated ... 63
On deposits—
Part of gross income ... 4
Subject to withholding; must be included in personal return whether paid or not ... 67
On obligations of State or political subdivision of, United States or possessions, not part of gross income ... 5
Paid as rental by corporation, how treated ... 148
Paid by bank, etc., on deposits, etc., allowable deduction ... 149
Paid by corporation—
Deduction of what, when ... 148
On indebtedness secured by collateral subject to sale, deductible when, why ... 150
At different rates, rule for application of deduction of ... 151
On mortgage on property in which corporation has equity or is purchasing, how treated ... 148
Part of gross income ... 4
Payment of, to beneficiaries by insurance companies, part of gross income. 5
Registered, certificate claiming exemption to be filed at least five days before due-date of interest ... 44
Registered, duty of debtor before payment of ... 41
INVENTORS:
Earnings of, indefinite or irregular not subject to withholding ... 32
INVENTORY:
Corporation, purpose and use of, kinds of ... 161
JOINT STOCK COMPANY:
Assessment against, payable ... pp. 4, 20
Deductions allowable to ... 9
Income—
How ascertained ... pp. 14, 15
To be separately stated ... p. 18
Losses actually sustained ... p. 14
Neglecting to make return, penalty ... p. 12

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JOINT STOCK COMPANY—Continued. Articles.
Net income from all sources ... p. 14
Net income taxable for preceding calendar year ... p. 12
Notice to be given of assessments ... p. 20
Penalty for failure—
To make return ... p. 20
To pay tax ... p. 21
Return—
False, penalty for ... p. 12
For others made by ... p. 9
Net income to be shown on ... p. 20
Refusing to make, penalty ... p. 12
When available ... p. 21
When to make ... p. 17
Special excise tax and how computed ... p. 26
JUDGES:
United States courts, salaries exempt, what ... 5
JURISDICTION:
Of courts ... p. 25

L.

LABOR ORGANIZATIONS:
Exempt ... p. 12
LAST DUE DATE:
Defined ... 175
LAWS:
Relating to assessment, remission, collection, refunding ... p. 25
LAWYERS:
Fees, indefinite or irregular, not subject to withholding ... 32
LESSEES OR MORTGAGORS:
Make return for others, when ... p. 9
LIABILITY:
To tax of a taxable person not to be released ... 27
LICENSE:
Bond may be required on form furnished ... 56
Failure to obtain, penalty for ... 55
For branch, to be made through principal office ... 57
Form of application for, to be made to collector of district ... 55
Form of; to be issued by collector, good until revoked ... 55
Required for collection of interest or other foreign items, when, by whom, where obtained ... p. 11, Art. 54
LICENSEE:
First, receiving foreign item for collection to withhold and be responsible for tax and to note fact of withholding on such item, effect of ... 58
For collection of foreign items—
Disposition of certificates accompanying, by ... 61
To keep record showing what ... 62
To report to collector (Form 1043), what, when ... 59
LIFE INSURANCE:
Proceeds of policies, when to be excluded from gross income ... p. 5, Art. 5
LIFE INSURANCE COMPANY:
Applied surrender values and consideration for supplementary contracts both to be added and deducted in return ... 102
Deductions from gross income, what ... p. 19, Art. 100
Gross income, definition ... pp. 14, 19, Art. 101
Supplementary statement attached to return of, showing what ... 103

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	Article.
LIMITATION, STATUTE OF:	
For income tax purposes, three years	177
LODGE SYSTEM:	
Corporation operating under, defined	89
LOSS:	
Corporation—	
Deductible, defined	124
From sale capital assets, how ascertained	128
From sale securities below par, how treated	135
Insurance company, deduction for, what	147a
Removal of building not deductible, why	127
Reserve for, not deductible	126

M.

MAKER:	
Of note given in payment of interest held responsible for normal tax	68
MANUFACTURING COMPANY:	
Gross income, definition	104
MANUFACTURERS:	
Returns of, accessible how, penalty, sec. 3167	p. 22
MARINE INSURANCE COMPANY:	
Deductions by	p. 18
MATERIALS AND SUPPLIES ON HAND:	
Deduction by corporation on account of, what	123
MERCANTILE CORPORATION:	
Gross income, definition	105
MINE:	
Gross value at—	
Defined	6
Corporation, definition	142
Depreciation	p. 14
Operated on royalty basis, corporation, deduction for depletion of deposits not allowed operating corporation	145
MINOR:	
Who make claim for deductions for	33b
MISCELLANEOUS CORPORATION:	
Gross income of, definition	106
MONTHLY LIST RETURN:	
Form of, what to contain, to be filed in duplicate	50
Of coupon or registered interest orders received with ownership certificates, form of and what to show	53
Of licensee for collection of foreign item, form of, what to show, with whom filed, when	59
Summary of, when to be filed and what to show	50
Totals only to be carried into annual return	51
MORTGAGES:	
Interest on, when subject to withholding	p. 10
Not payable in United States, when subject to withholding	p. 11
Paid by corporation which has equity, how treated	148
Of corporation, income from, subject to withholding, regardless of amount	37
MUTUAL COMPANIES:	
To make return of income; definition of net income	80

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MUTUAL FIRE INSURANCE COMPANY: Article.
Gross income of, definition ... 98
Premium deposits returned, what ... p. 18
Return of ... pp. 14, 16, 18, 19
Supplementary statement attached to return of, showing what ... 103
Taxable income, what ... 98
MUTUAL MARINE INSURANCE COMPANY:
Deductions, what ... p. 19, Arts. 99, 147d
Gross income ... pp. 14, 18
Supplementary statement attached to return of, showing what ... 103

N.

NAMES:
Arrangement of, in list by collector ... 188
NATURAL DEPOSITS:
Deduction for depreciation of, basis and limit of ... 141
NET INCOME:
Defined ... 3
Corporation—
Engaged in more than one class of business, how ascertained ... 113
For 1913, how ascertained ... 159
From sale of capital assets, how determined ... 109
Should be what ... 158, 183
Foreign corporation, defined ... 157
Mutual companies, defined ... 80
NORMAL TAX ... 1
NOTE:
Given in payment of income; maker is debtor or source and must withhold on entire amount of note if in excess $3,000, except allowance exemption or deduction claimed ... 68
Given in payment of interest; failure of purchaser to make allowance or deduction for tax, only remedy is against vendor, how ... 68
NOTICE:
Answer of guardian, etc., may show what ... 18
Assessment, advance preparation of, by collector ... 198
Claiming deduction account partnership expense, by whom filed, what and how ... 47
Collector to give withholding agent, when tax withheld is adjusted in assessment ... 33c
Form 1015 filed by fiduciary with other withholding agent, nothing withheld ... 70
Of assessment; failure to pay tax; make return; form of; time ... 197
Of claim for exemption by foreign partnership, when, what, how ... 48
Of failure fiduciary to file return, served ... 71
Of failure to make return, when to be served on guardian, etc ... 18
To delinquent, failure to file return in time ... 196
To taxpayer, of amount for which liable as on or before June 1 ... 25

O.

OATH OR AFFIRMATION:
Required in verifying returns ... 22
OBLIGATIONS :
Interest on, of State or political subdivision; United States or possessions not part of gross income ... 5

Digitized by Google

OBLIGATIONS OF CORPORATIONS, ETC.: Article.
Similar to bonds, mortgages, and deeds of trust, income from, subject to withholding, regardless of amount ... 37
OBSOLESCENCE:
Of patents, deduction for, what, how determined ... 138
OFFICERS:
Of State or political subdivision of, compensation—
Of not part of gross income ... 5
Paid by United States is part of gross income ... 5
Regulations designed for enforcing compliance with law ... p. 27
Of the United States making returns for others ... 9
OIL OR GAS TERRITORY LEASED:
Basis of deduction for depletion of ... 144
OIL OR GAS WELLS AND MINES:
Operated on royalty basis, deduction for depletion of deposits not allowed operating corporation ... 145
OMITTED TAX:
May be assessed and with penalty, when ... 184
ORGANIZATIONS:
Civic, exemptions ... p. 13

P.

PAID-UP CAPITAL STOCK:
Definition of ... 95
PARTNERSHIP:
As such not subject to tax and not required to make return except on request Commissioner or Secretary ... 12
Foreign—
Composed of nonresident aliens, resident aliens, and citizens of United States, either or both, requisites of ownership certificate for. 49
Owning bonds, etc., of corporations, etc., organized or doing business in the United States not subject to withholding on interest of, provided exemption claimed (Form 1016) ... 48
Individual share of profits of, to be included in personal return ... 11
Limited, is corporation and subject to corporation tax ... 86
Liable only in individual capacity ... p. 8
May claim deduction for expenses of business, when and how ... 14
Members of, liable in individual capacity for tax on their respective shares of earnings of, whether distributed or not ... p. 4, Art. 94
Profits of—
Once returned and tax paid, not again reported as income ... 14
To be included by individuals entitled to, in their personal return .. 13
Return of, when to be made, section 3173 ... p. 22
Shall forward correct statement of profits and names ... p. 8
Share of profit to partners ... p. 8
To file with withholding agent notice claiming deduction for expense of, what and how ... 47
To make list or return, how and when, section 3173 ... p. 22, Art. 23
When required to make return must make complete and correct ... 12
PATENTS:
Deduction for—
Depreciation, what, and how determined ... 137
Obsolescence, what, how determined ... 138

Digitized by Google

	Article.
PAYMENT:	
To officer authorized to receive	p. 9
PENALTY:	
And interest for nonpayment when due and for 10 days after notice, when.	p. 9
Delinquent tax—	
Amount of, and how determined, not assessed against estates, insane, deceased, or insolvent persons	25
PENALTY:	
For divulging—	
Information on return, what	181
Unlawfully, information on return, fine or imprisonment, or both, with costs	164
Failure to make return in prescribed time or for false or fraudulent, fine or imprisonment, or both	p. 21, Art. 164
Failure to pay tax, 5 per cent to tax plus 1 per cent per month	164
False claim or statement to secure exemption	p. 10, Art. 33a
False or fraudulent return with intent to evade or defeat tax, what	26
False or fraudulent return, 100 per cent to tax	p. 21, Art. 164
False statement in regard to deduction	p. 10, Art. 33b
Making false return	p. 12
Neglect or refusal to make return	p. 12, Art. 164
Person or officer of corporation required to make return, making false or fraudulent, with intent to defeat or evade assessment	164
Refusal or neglect to make return, liable person, corporation, etc.	p. 12, Art. 26
Refusal to make or for false return, to be assessed and collected, what	21
Return made and properly mailed in time but not received in time, none	174
PENSIONS:	
Or payments on account of injuries to employees of corporations, deductible expense	120
PERSON:	
Whose income is not subject to withholding at source, make personal return	32
PERSONS, FIRMS, ETC.:	
Collecting foreign items, license required	p. 11
Whatever capacity acting, withholding agent, when, what	pp. 7, 9
Withholding none prior to November 1, 1913	p. 8
PHILIPPINE ISLANDS:	
Exemptions	p. 13, Arts. 25, 26
PLANT:	
Corporation, deduction for depreciation (in addition to the deduction for depletion of mine), what and basis of	143
POLITICAL SUBDIVISION OF STATE:	
Interest on obligations of, not part of gross income	5
Officers and employees of, compensation not part of gross income	5
PORTO RICO:	
Exemptions and provisions	p. 13, Arts. 25, 26
POSSESSIONS:	
Of United States, interest on obligations of, not part of gross income	5
PREMIUMS:	
Deductions from, by whom, when	p. 9
PRESIDENT OF THE UNITED STATES:	
Salary of, exempt, what	5

Digitized by Google

PROCEDURE: Article.
In case of refusal or neglect, liable individual to make return or for false return made ..... Note to Art. 21
PROFESSIONAL:
Persons whose income indefinite or irregular, not subject to withholding. 32
PROFIT OR LOSS:
Corporation, on sale of capital assets, how determined 110
PROFITS:
For taxable purposes of those arising or accruing within calendar year .. 4
From any source part of gross income 4
Partnership once return and tax paid, not reported as income 14
Partnership, individual entitled to include in his personal return 13
Share of, in partnership to be included in return of individual 11
PROPERTY:
Received by gift, bequest, devise, descent, income from but not value, part of gross income 4
PUBLIC RECORDS:
Returns are, inspection of or copies, how 178
PUBLIC UTILITY:
Income from accruing to State, etc., exempt from tax 93
PURCHASER:
Of note given in payment of interest, failure to make allowance or deduction of tax in purchase or discount only remedy is against vendor 68

R.

RATE:
Deduction for depletion of mines, etc., regulation and limit of 142
RECEIPTS:
Separate to be issued, when 25
RECORD:
To be kept by—
Collecting agent, what 40
Licensee for collection of foreign items, what to show 62
REFUND:
Failure to make claim for exemption or deductions with withholding agent in time; only remedy is by application for 33c
REGISTERED INTEREST:
Certificate claiming exemption from tax on, to be filed at least five days before due date of interest 44
REGULATIONS:
Designed to assist taxpayer and officer in complying with the law ..... p. 27
Subjects covered and arrangement of ..... p. 27
REMOVAL OF BUILDINGS:
Not deductible loss, corporation, why 127
RENT:
Corporation, cost of buildings on leased ground deductible, when 115
How treated 63
Interest paid by corporation as, how treated 148
Part of gross income 4
REPAIRS:
Deduction, when 131

Digitized by Google

	Article.
RESERVE:	
Assessment insurance company, definition	147d
For depreciation—	
Diversion of, correction	133
Use of, disposition of excess of	132
For insurance of corporate property not deductible	122
For losses not deductible	126
For taxes of corporation not deductible	156
Insurance company, deductible net addition to, definition; what basis computation; what not to be included in	147d
To meet loss, insurance company, how treated	147c
RESIDENT ALIEN:	
Certificates of ownership of bonds, when and how to be used and to specify what	42
Income of, from coupon or registered interest, subject to withholding except to extent exemption claimed	44
RETURNS:	
Administrators to make for heirs, when	9
Agents to make for others	9
Annual individual and monthly list to be forwarded to Commissioner, how	24
Annual list (Form 1013), to show what, and to be filed on or before March 1	50
Annual, of coupon or registered interest orders not accompanied by certificates of ownership; form of, and what to show; to be filed when; to show totals only on monthly return	53
Annual, of debtors or withholding agents to show totals only on monthly list	51
Annual, fiduciary to collector of district when; show what	71
Annual, of withholding agent, form for, to be accompanied by what, when to be filed	35
Annual, of withholding agent (Form 1042), what to show and when to be filed	69
Approval of Secretary	7
Blanks for, furnished corporations by collector	163
By persons of lawful age	7
Certified copies of, when, why, delivered to whom	180
Conservators to make for others	9
Corporation—	
Every, not specifically exempt, to make	80
Fiduciaries, withholding agents, when to be made	190
Going into liquidation to make final; filed when and where	85
Not receiving blank for, should make application for, to whom, when	163
One only for 1913	160
Organized during year, to make	84
To make complete or nor accepted	163
When income paid by lessee direct to stockholders, must nevertheless make	80
Copy of, unlawful to exhibit, section 3167	p. 22
Divulging—	
Information from, penalty	181
Unlawfully, information on, penalty	164
Due date on Sunday or legal holiday, effect of	176
Duplicate, when, of whom required, disposition of	193

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RETURNS—Continued.
Duty of collector— Article.
On failure to find person at home, section 3173 ... p. 23
In forwarding and investigation of ... 192
Employees to make for others ... p. 9
Evidence by which to verify, what ... 183
Executors to make for others ... p. 9
Extension of time—
For filing, when, what, how ... 23
To make, not to exceed what, how, to whom made ... 173
Failure of corporation to receive blank for, not excused from making return or penalties for failure ... 163
Failure—
Of fiduciary to file, notice of, served ... 71
To make by guardian, agent, or other person acting in trust capacity, notice to, served on ... 18
To make in prescribed time, of a false or fraudulent, penalty ... 164
To make—
Notice of, form and time to serve ... 197
Legal provisions as to ... p. 23
False or fraudulent—
Penalty ... p. 12, Art. 164
Duty of collector in matter of ... 192
With intent to defeat or evade tax, penalty ... 26
Fiduciary—
Having income not distributed; what to be shown; tax to be withheld and paid when ... 24
Must be made when ... 71
Not to include income on which tax paid ... 71
To include only matter within scope of authority ... 72
What to show, and how executed ... 73
For 1913, must be on new form and not on excise form heretofore used ... 172
Foreign corporation having more than one branch office in United States to designate principal office and person to make return ... 83
Form of for corporation prescribed ... 163
For persons incapacitated, by whom made ... p. 10
For persons absent from United States, by whom made ... p. 10
Fraudulent—
Duty of collector ... p. 23
Extra tax because of ... p. 9
Time limitation for paying after notice ... p. 9
Husband and wife, net income both exceeds $4,000, of combined income, required ... 10
Husband and wife not living apart, separate income from separate estate may be made on one; separately stated and with names and addresses of both ... 10
Husband should make for himself and wife ... 10
Husband or wife, either having net income $3,000 or over, required, and must include income of both ... 10
Individual—
To be made when ... 190
For calendar year ... 4
Made by collector when ... 20

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RETURNS—Continued.
Individual—Continued. Article.
Not required to make, when made by other for him, when..... 19
To include share of partnership profits in..... 13
Information or copies from, to officers of State, when, what, how; original not removed except..... 179
Last due date defined..... 175
Leased corporations make their own..... 82
Legality of, made by collector of deputy, sec. 3176..... p. 24
Lessee corporation assuming debts of lessor to include in lessee return all receipts of lessor..... 81
Lessee corporation not to include in its own statement of capital stock, that of lessor; nor in its own statement of indebtedness, that of lessor except when said indebtedness is assumed by lessee..... 82
Life insurance company—
Applied surrender values and consideration for supplementary contracts both added and deducted..... 102
Supplementary statement attached to return of, showing what..... 103
Made and properly mailed in time, no penalty if not received in time.. 174
Made by guardian or authorized agent, when..... 17
Made on basis of fiscal year but not so designated, not accepted, and must be made for calendar year..... 171
Made to collector..... p. 9
Monthly, by withholding agent, when to be filed; with whom, what to accompany..... 35
Monthly list and annual, by licensee for collection of foreign items, what, to whom, when..... 59
Monthly list, form of, what to contain, to be filed in duplicate..... 50
Monthly list of coupon or interest orders not accompanied by certificates of ownership, form of, and what to show..... 53
Must be made, when, section 3173..... p. 22
Mutual companies to make; definition net income..... 80
Mutual fire insurance companies, supplementary statement attached to, showing what..... 103
Mutual marine insurance companies, supplementary statement attached to, showing what..... 103
Neglect or refusal of liable person, corporation, etc., to make, penalty.... 26
Neglect or refusal to make, 50 per cent additional tax..... 164
Neglect to make, penalty..... p. 12
Nonresident alien, agent or representative to make for, when, what to be included in..... 8
Not required, income not exceeding $3,000..... p. 8
Not filed in time, notice sent to delinquent..... 196
Officers and employees of the United States, having control salaries, rents, etc., to make when..... p. 9
Of income—
When required, where filed..... 15
persons deceased within taxable year, made by executor or administrator..... 17
On basis of calendar year or fiscal year, time of assessment and payment of tax..... 177
One deduction only of exemption..... p. 8
One to cover both special excise and income tax for 1913 for corporation.. p. 26
Open to inspection, when..... p. 21

Digitized by Google

RETURNS—Continued. Article.
Partnership profits included by individual and tax paid, not again reported as income 14
Partnership, requisite of 12
Penalty—
Against corporation for failure to make 163
For failure to make at time specified ..... p. 21
For refusal to make ..... p. 12
Personal, Form 1040; fiduciary may be appointed agent or attorney to make for beneficiary 72
Personal not required, when 8
Person or officer of corporation required to make, making false or fraudulent with intent to defeat or evade; penalty 164
Person residing in foreign country, provision for 7
Public records, inspection or copies, how ..... p. 21, Art. 178
Receivers to make for others 9
Refusal or neglect of liable individual, duty of collector ..... p. 23, Art. 21
Refusal to make, extra tax ..... p. 9
Requisite of bookkeeping for verifying 182
State officer may have access to ..... p. 21
To be filed, when ..... p. 7
To be made on Form 1040 for individuals 16
To be made to collector ..... pp. 7, 9
To include—
Personal income not subject to withholding 32
Share of profits in partnership whether divided or not 11
To be verified, how, before whom ..... p. 7, 22
Trustees to make for others ..... p. 9
Understatement of income, cause to be shown why amount not increased ..... p. 8
Undervaluation or understatement ..... p. 23
Unlawful to exhibit or divulge information from, section 3167 ..... p. 22
Wife having income of $3,000 from separate estate managed by herself may make her own 10
What must be shown on 16
When to be made; where filed, section 3173 ..... pp. 21, 22
Withholding agent, what disposition of; should not be filed until expiration of time allowed for filing claims for exemption or deductions 33c
REVISED STATUTES:
Amended sections of, providing duties and penalties, sections 3167, 3172, 3173 ..... pp. 22, 23, 24
ROYALTIES:
How treated 63
ROYALTY BASIS:
Mines, oil or gas wells, operated on, deduction for depletion of deposits not allowed operating corporation 145

S.

SALARIES:
How treated 4, 63
SALE OF CAPITAL ASSETS:
Corporation—
Income from, how determined 108, 109
Loss from, how ascertained 128
Profit or loss on 110

Digitized by Google

SALESMEN: Article.
Commission to, paid in stock, deductible expense when 117
SALVAGE:
How treated in return of insurance company..... 147c
SCIENTIFIC ASSOCIATION:
Exemptions..... p. 13
SECURITIES:
Income from; sale of, below par; loss 4, 135
SHRINKAGE:
In book value capital assets, how treated..... 134
In property value insurance company, depreciation loss by, what and when deductible..... 147b
SIZE:
Foreign items too small for notation on, statement may be attached to.. 58
SOCIETY:
Operating under the "lodge system," defined; exemptions..... p. 13, art. 89
SOURCE:
Defined..... 31
Example of where and where not withholding at..... 32
Fiduciary is, when..... 70
Note given in payment of income, maker of note is..... 68
Persons, firms, etc., acting as, designated "debtors" or "withholding agents"..... 31
Tax withheld at, to be paid to collector..... 34
Withholding at, applies only to normal tax imposed on individuals 29
Who required to act as; liable for tax withheld..... 30
SPECIAL TAX:
See sections 3173, 3176..... pp. 22–26
STATE:
Information from return, when, how..... 179
Officers and employees, paid by United States; compensation part of gross income 5
Political subdivision of, compensation of officers and employees not part of gross income; interest on obligations of, not part of gross income. 5
STATE OR UNITED STATES:
Construction; exemptions, distinction as to, for certain income from State, etc..... pp. 13, 21
STATUS:
For claiming exemption by individuals..... 10
STATUTE OF LIMITATION:
For income-tax purposes, three years..... 177
STOCK:
Paid-up capital, definition..... 95
SUBSTITUTE CERTIFICATES 40
SUMMARY OF MONTHLY LIST RETURN..... 50
SUMMONS, SECTION 3173..... p. 24
SUNDAY OR LEGAL HOLIDAY..... 176
SUPPLEMENTARY STATEMENT ATTACHED TO RETURN..... 103
SUPPLIES ON HAND..... 123

T.

TAX:
Additional, on individuals only, rates and classes..... 2
Amounts added as penalty, section 3176..... p. 24
Assessment and collection..... 25
From withholding agent..... 36

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TAX—Continued.

	Article.
Assessment—	
Against income withheld at source	38
Of, against withholding agent deferred	189
Claim for abatement of	33c
Cooperative dairies exempt	92
Corporations—	
Exempt	87
On entire net income	185
Organized in United States, all (with certain exceptions) subject to	76
Delinquent if not paid by June 30	25
Deputy collectors, duties, section 3172	p. 22
Domestic building and loan association, what necessary to exempt	87
"Duties" are not but item of cost	155
Evidence of nonliability, received by withholding agent, disposition of	p. 27
Evidence of payment of, by corporation for deduction purposes	158
Excise on corporation	Arts. 160, 191
Extra	p. 9
Failure to pay	164, 177, 197
Fixed determinable annual income, subject to withholding	65, 66
Fraternal societies, exempt	p. 13
Individual—	
Net income over $3,000 annually, liable to	p. 12, Art. 9
Income from public utility taxable when	93
Income of corporations organized elsewhere than in the United States, liability	79
Normal—	
Computation of	Art. 1, 7
Deductions in connection with	pp. 10–12, Art. 41
Agricultural, horticultural, and labor organizations, certain mutual savings banks, exempt	p. 12
Not to be withheld against partnership profits	47
Not to be withheld on bank deposits	67
Omitted, procedure upon discovery of	184
Once withheld, subsequent withholding agent, exempt on filing certificate (Form 1006)	34
On excess of income over exemption	10
Paid by corporation, when not deductible	153
Partnership limited is corporation and subject to corporation tax	86
Penalty on delinquent	25
On income—	
From bonds, etc., corporations, etc	37
Paid by note	68
On interest on bonds owned by corporations organized in United States	45
On net income of foreign corporation; definition; deduction	157
On net income of corporation—	
Computation of	159
Distributable to owners	79
Receipts to be given by collector	p. 25
Returns of, to be made, section 3173	p. 22
Special excise	p. 26
Taxable person not to be relieved from liability	27
To be paid	177

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	Article.
TAX—Continued.	
To be withheld	44, 64
Withheld—	
At source, to be paid to	30
By first licensee, fact of withholding noted	58
Collector to adjust in assessment against withholding agent	33c
From what	64, 75
To be paid to collector	33c, 34
TAXABLE INCOME:	
Definition; liability	3, 7
TAX DUE	187
TAXES:	
Paid by corporation constitute deduction	152
Reserve for, by corporation not deductible	156
TAXPAYER:	
Regulations designed to assist	p. 27
TAX STATEMENTS	199
TAX YEAR 1913	7
TRUSTEE:	
As fiduciary	70
Duties of	p. 9
TEACHER:	
Public school	5
TIMBERLAND:	
Deduction for depreciation—	
Account removal of timber	139
Limit of, excess of, is income	140
TIME:	
Extension of, for making and filing return	23, 173

U.

UNEARNED INCREMENT:	
Not value for depreciation purposes	146
"UNITED STATES" OR "STATE":	
Construction	p. 21
Interest upon obligations of	5

V.

VALUE:	
Book, capital assets, shrinkage in	134
Gross at the mine, definition	6, 142
Of property, acquired by gift, etc	4, 5
Shrinkage in property, deductible	147b
Unearned increment, not as basis of deduction for depreciation	146

W.

WAGES	4, 63
WIFE:	
Having income of $3,000 from separate estate managed by herself may make return of her own income	10
WIFE AND HUSBAND:	
Combined net income of exceeds $4,000, return required, both jointly and separately liable for return and tax	10
WIFE OR HUSBAND:	
Either having income $3,000 or over, return required and must include incomes of both	10

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	Article.
WITHHOLDING:	
At source	30
Example of where and where not	32
On and after November 1, 1913	29
By first liscensee; notation by; responsibility of	58
From what	64
WITHHOLDING AGENT:	
Annual return by—	
By, when, to show what	50, 51
Of (Form 1042), when to be filed, to be accompanied by what	35, 69
Not to be filed until	33c
Assessment of tax against, deferred until	189
Claim for exemption and deductions filed with (par. B and C).	p. 10, Arts. 33ac
Definition of, as source	31
Disposition of returns of	193
Duty in matter of certificates of ownership	p. 9, Art. 43
Duty of, in matter of claims for deduction (par. B)	33c
Duty of, in case of foreign partnership	48
Evidence of nonliability to tax filed with, disposition of	p. 27
How to treat substitute certificate of collecting agent and certificates of owners not subject to having tax withheld	51
May file claim for abatement of tax	33c
Monthly return by, when to be made, with whom filed, to be accompanied by what	35
Notice filed with, claim for deduction, account partnership expense	47
Not to withhold against nonresident alien or foreign organization doing business in United States, when	46
Return of, when to be made	190
Relieved from necessity of withholding, when	p. 27
To file monthly list return, form of, and what to contain	50
To forward to collector tax withheld, when	33c
To furnish statement of claim for deductions filed with collector	33c
To pay to collector tax withheld	64
To withhold from, what, amount of	32, 65
When claim for deductions, paragraph B, to be filed with, duty of	33b, 66
When so authorized, may file return of withholding in district of his location	38
Who to be, in cases cited	64
WITHHOLDING AND PAYING AGENT:	
Of debtor in United States, charged with duty of withholding, when	39
WITNESSES:	
Jurisdiction for compelling attendance	p. 25

Y.

YEAR:	
For taxable purposes for individual, is calendar year	4
(See fiscal year for corporation.)	

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(T. D. 1945.)

Income tax.

Regulation relative to exclusion of income derived from dividends or net earnings of corporations, joint-stock companies or associations, and insurance companies by persons subject to the normal tax only in computing their net income for the taxable year.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 7, 1914.

To collectors of internal revenue:

Referring to that provision of the income-tax law which reads as follows:

***Provided further*, That persons liable for the normal income tax only, on their own account or in behalf of another, shall not be required to make return of the income derived from dividends on the capital stock or from the net earnings of corporations, joint-stock companies or associations, and insurance companies taxable upon their net income as hereinafter provided—**

you are informed that returns of individuals, when such individuals are subject to the normal tax only, need not include the income derived from the dividends or net earnings referred to above. When individuals are subject to the additional tax, such income derived from said dividends or net earnings must be shown on the return.

Persons having an annual net income of $3,000 or more, including the income derived from dividends or net earnings of corporations, etc., but whose total net income is less than $20,000, and whose net income, exclusive of the income derived from dividends or net earnings of such corporations, etc., is less than $3,000 for the taxable year ($2,500 for the year 1913), shall not be required to make a return of annual net income.

Returns which have been or may be received from persons subject to the normal tax only, in which such dividends are included and deducted, need not be changed to meet the provisions of this regulation.

All previous rulings of the department, including the general regulations No. 33, are amended accordingly.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:

CHARLES S. HAMLIN,
Acting Secretary of the Treasury.

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(T. D. 1946.)

Income tax.

Special assessment districts created under the laws of the several States for public purposes, such as the improvement of streets and public highways, the provision for sewerage, gas, and light, and the reclamation, drainage, or irrigation of bodies of land, and levee and school districts are held to be political subdivisions of a State.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 10, 1914.

To collectors of internal revenue:

Referring to paragraph B, section 2, of the income-tax law, which reads as follows:

That in computing net income there shall be excluded interest upon the obligations of a State or any political subdivision thereof—

you are informed that under date of January 30, 1914, the honorable the Attorney General held that special assessment districts created under the laws of the several States for public purposes, such as the improvement of streets and public highways, the provision for sewerage, gas, and light, and the reclamation, drainage, or irrigation of bodies of land within such special assessment districts when such districts are for public use, are political subdivisions of the State within the meaning of the above proviso.

It is held that the term "political subdivision" includes special assessment districts or divisions of a State created by the proper authority of the State acting within its constitutional powers and under its general laws, for the purpose of carrying out a portion of those functions of the State which by long usage and inherent necessities of government have always been regarded as public.

Levee and school districts when lawfully created under the authority of the State and which are authorized by the laws of the State to levy a tax to meet the obligations of such districts are also held to be political subdivisions of a State within the meaning of the income-tax law.

The income derived from interest upon the obligations of all such public districts shall therefore be excluded in computing net income for the income tax.

This decision supersedes T. D. 1910.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:

CHARLES S. HAMLIN,
Acting Secretary of the Treasury.

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(T. D. 1947.)

Income tax.

Extending T. D. 1945 to cover returns made by fiduciaries in their fiduciary capacity.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 12, 1914.

To collectors of internal revenue:

You are advised that the provisions of T. D. 1945—in matter of exclusion of dividends or net earnings of corporations, joint-stock companies or associations, and insurance companies, by persons subject to the normal tax only, in computing their net income for the taxable year—are extended to cover such returns by fiduciaries.

To make clear any doubt on the subject, the provisions of T. D. 1945 are hereby specifically extended to include returns made by fiduciaries as such.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:

CHARLES S. HAMLIN,
Acting Secretary of the Treasury.

(T. D. 1948.)

Income tax.

Amendment of T. D. 1942.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 12, 1914.

To collectors of internal revenue:

T. D. 1942 is hereby amended as follows:

In the first paragraph, after the word "income," insert *tax on which is*, and after the word "paid" insert *or to be paid.* In the second paragraph, for words "on the coupons on which," substitute *in such cases when*, and for words "in cases wherein," substitute the word *and.* In the third paragraph, for the word "paid," substitute the word *withheld.*

So that the decision as amended will read:

"This office is in receipt of numerous letters asking whether income, tax on which is *paid or to be paid* at the source, although not *withheld* at the source, can be placed in column A, page 2, of Form 1040, and in reply to this inquiry you will advise as follows:

"The stipulation in bonds whereby the tax which may be assessed against them or the income therefrom is guaranteed, is a contract

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wholly between the corporation and the bondholder, and in so far as the income-tax law applies, the Government will not differentiate between coupons from bonds of this character and those from bonds carrying no such guaranty. The debtor corporation, or its duly authorized withholding agent, will be held responsible for the normal tax due in such cases when no tax has been withheld and no exemption claimed.

"Income paid by 'debtors' from March 1 to November 1, 1913, shall be included in the return of the individual (under column B, page 2, of Form 1040) as income upon which the normal tax of 1 per cent has not been withheld and paid at the source. Income received by individuals between November 1 and December 31, 1913, upon which the normal tax has been withheld at the source shall be included in their annual return (under column A, page 2, of Form 1040) as income upon which the tax has been withheld."

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 1949.)

Use of mash fit for distillation in the production of artificial wines.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 16, 1914.

To collectors of internal revenue and others concerned:

In view of the large quantity of alcoholic spirits commonly known as "pomace" or "raisin" wine now being produced from mash *fit for distillation*, attention is called to section 3282, Revised Statutes, as amended by section 5 of the act of March 1, 1879, which provides:

No mash, wort, or wash fit for distillation or for the production of spirits or alcohol shall be made or fermented in any building or on any premises other than a distillery duly authorized according to law; and no mash, wort, or wash so made and fermented shall be sold or removed from any distillery before being distilled; and no person other than an authorized distiller shall, by distillation or by any other process, separate the alcoholic spirits from any fermented mash, wort, or wash; and no person shall use spirits or alcohol * * * in manufacturing vinegar or any other article, or in any process of manufacture whatever, unless the spirits or alcohol so used shall have been produced in an authorized distillery and the tax thereon paid. Every person who violates any provision of this section shall be fined for each offense not less than five hundred dollars nor more than five thousand dollars, and be imprisoned not less than six months nor more than two years: *Provided further*, That nothing in this section shall be construed to apply to fermented liquors, or to fermented liquids used for the manufacture of vinegar exclusively, * * *.

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Attention is also called to section 3248, Revised Statutes, which declares that—

> Distilled spirits, spirits, alcohol, and alcoholic spirit, within the true intent and meaning of this act, is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation of grain, starch, molasses, or sugar, including all dilutions and mixtures of this substance; and the tax shall attach to this substance as soon as it is in existence as such, whether it be subsequently separated as pure or impure spirit, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production or by any subsequent process.

After a careful consideration, this office is clearly of the opinion that the mash used in the production of these so-called wines is a "mash fit for distillation," and that the wine so produced is an "alcoholic spirit" within the true intent and meaning of the statute.

As early as November 21, 1908, this office, in passing upon a wine formula then submitted, stated (T. D. 1437):

> The mash herein described is not a wine mash, as indicated. Neither is the product of the same a genuine wine, and manifestly there could be no other purpose on the part of a rectifier in making and fermenting such a mash than to produce a liquor free from tax sufficiently high in alcoholic strength as to render unnecessary the addition of tax-paid spirits in the manufacture of a compound liquor.

The use of such mash for the purpose indicated was then, as is now, held to be illegal, and notice was then given that any person so using such mash or any similar mash on and after January 1, 1909, would be reported for violation of said section 3282.

On application made the time so fixed has been several times extended by this office to enable the wine maker to secure, if possible, legislation authorizing the use of such mash in the production of wine, but such legislation, if sought, has not been secured, and this office must therefore insist upon a strict observance of the law as it now stands.

Notice is therefore now given that all parties using such mash in the manufacture of wine, however designated, on and after the 1st day of May, 1914, will be reported for prosecution under the provisions of said section 3282, and that all such mash found on any premises not authorized by law and all wines produced from any such mash on or after said date, wherever found, will be seized for forfeiture.

All decisions or instructions heretofore issued in conflict with the foregoing are hereby revoked.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
CHARLES S. HAMLIN,
Acting Secretary of the Treasury.

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(T. D. 1950.)

Income tax.

Time for filing returns of income, and penalties in connection therewith.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 19, 1914.

To collectors of internal revenue:

You are advised, and will so announce from your respective offices, that the law and regulations require returns of income for the taxable period, March 1 to December 31, 1913, to be made and filed on or before March 1, 1914. The law is mandatory and allows no discretion to be exercised by any officer. Section 3176, Revised Statutes of the United States, as amended and made part of the income-tax law, gives to collectors of internal revenue (they being satisfied as to the merits of the claim, and in the reasonable exercise of their judgment and discretion) authority to grant extension of time not to exceed 30 days from the time prescribed by law in which to file a return of net income, and then only in cases where such failure, neglect, or refusal is the result of "sickness or absence."

You are also advised, and will so announce, that there will be no change in income-tax regulations as they now exist prior to March 1, 1914, and that all persons and corporations required to make returns which have not as yet done so should make and file their returns at the earliest opportunity and on or before March 1.

Collectors will forward to this office immediately a report showing the number of returns filed in their respective offices as of February 20, 1914.

Penalties and additional tax, in connection with refusal or neglect to file return of income within the prescribed time.

As to corporations.—For neglect or refusal to make a return within the prescribed time, corporations are liable to a penalty not to exceed $10,000; and in case of neglect or refusal to make, or for a false or fraudulent return made, 100 per cent is to be added to the tax; and in the case of neglect or refusal to make and verify a return within the prescribed time (except in case of sickness or absence) 50 per cent is to be added to the tax; and in case of an officer of a corporation or like institution charged with the duty and responsibility of making and verifying a return who makes a false or fraudulent return with the intent to defeat or evade any assessment or tax, he shall be guilty of a misdemeanor, and be subject to a fine not to exceed $2,000, or to imprisonment not to exceed one year, or both, at the discretion of the court, together with costs.

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As to individuals.—For neglect or refusal to make a return within the prescribed time, the penalty is not less than $20 nor more than $1,000; and in case of intentional neglect or refusal to make, or for a false or fraudulent return made, there shall be added 100 per cent to the tax; and in case of neglect or refusal to make a return within the prescribed time (except in case of sickness or absence) there shall be added 50 per cent to the tax.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1951.)

Records abolished.

Records 29 and 32 abolished; copies of Forms 51B and 79 to be retained in lieu thereof.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 16, 1914.

To collectors of internal revenue:

Record 29, Record of Reports on Form 51B, and Record 32, Record of such reports on Form 79, are hereby abolished.

In lieu of these records, collectors will retain copies of each report on Form 51B and of each revenue account on Form 79, binders for which will be furnished without requisition as soon as received by the department.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1952.)

Diary reports.

General deputy collectors, special gaugers, and special employees will render but one Form 629 to the revenue agent under whom assigned.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 27, 1914.

To internal-revenue agents in charge of divisions:

After March 1, 1914, revenue agents in charge of divisions are authorized to require every general deputy collector, every special

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gauger, and every special employee to render one trimonthly diary report on Form 629, covering each 10-day period of the month, such report to be sent to the revenue agent under whose direction the officer is assigned to duty for examination and for file.

These instructions are issued in order that there may be a record in the office of every agent in charge of a division, showing the work performed by all employees subject to direction by the agent.

Other internal-revenue agents and inspectors will continue to make their trimonthly diary reports in duplicate, one copy for the agent in charge of the division and one copy for the Commissioner of Internal Revenue, as now required by the regulations.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1953.)

Income tax.

Extension of time for filing returns under income-tax law by citizens of the United States living abroad.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 2, 1914.

To collectors of internal revenue:

Referring to that portion of section 3176, as incorporated in the income-tax law, which provides that—

In case of neglect occasioned by sickness or absence as aforesaid, the collector may allow such further time for making and delivering such list or return as he may deem necessary, not exceeding thirty days—

you are informed as follows:

Various citizens of the United States living abroad were unable through such absence from this country to inform themselves as to the requirements of the law, and were also unable to obtain the necessary blank forms on which to make their returns of annual net income for the income tax. You are therefore authorized to mark the returns received from foreign countries after March 2 and up to and including March 31 as having the time extended to cover the period of filing such return.

The State Department has cabled the consular service and others residing in foreign countries that they shall forward a letter, in which their income shall be stated, and that such letter will be received in lieu of the return so far as the date of filing is concerned.

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Such letters are now coming to this office, and they are being forwarded to the various collection districts to be held as tentative returns until the returns on Form 1040 shall be received. The regular returns on Form 1040 when received should be attached to the tentative returns and both should be forwarded to this office with the assessment lists on which the same shall be listed. The date of filing the returns should be considered that on which such tentative returns were filed.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1954.)

Denatured alcohol.

Formula No. 2B for specially denatured alcohol for use in the manufacture of pyroxylin plastics.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 10, 1914.

The following formula for denaturing alcohol to be used *exclusively* in the manufacture of pyroxylin plastics (pyralin, celluloid, and similar products, but not solutions of pyroxylin, such as varnishes, etc.) is hereby approved:

Formula 2B.

To 100 parts by volume of ethyl alcohol add one-half part by volume of benzol, such benzol to be tested according to the following specifications:

Solubility in water.—When 10 c. c. of benzol are shaken with an equal volume of water in a glass-stoppered cylinder, divided into tenths of a cubic centimeter and allowed to stand five minutes to separate, the upper layer of liquid must measure not less than 9.5 c. c.

Boiling point.—When 100 c. c. of benzol are subjected to distillation in the same manner as described for the determination of the boiling point of wood alcohol, not more than 1 c. c. should go over at 77° C. and not less than 95 c. c. at 85° C.

The use of alcohol denatured according to the above formula will be permitted only for the purpose herein specifically authorized, and only where the process of manufacture (including the recovery of the alcohol for reuse) is a "continuous" one.

Samples of such recovered alcohol will be obtained from time to time by the inspecting officers, who will submit the same for analysis in order that it may be determined whether the alcohol so recovered requires redenaturation.

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In submitting samples of the benzol for analysis the officers submitting the same should state that such benzol is to be used under this particular formula, so as to differentiate it from other benzol which may be used under other formulas.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 1955.)

Income tax.

Extension to June 30, 1914, of waiver of T. D. 1901, Treasury requirements for the filling in on certificates of the numbers of the bonds of corporations, etc.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 10, 1914.

Notice is hereby given that T. D. 1901, issued November 28, 1913, waiving, until March 31, 1914, the requirement that the *numbers of the bonds* or other like obligations of corporations, etc., from which interest coupons are detached or upon which registered interest is to be paid shall be filled in on the certificates is hereby extended to June 30, 1914.

In all other respects the certificates referred to must be filled in in accordance with the Treasury regulations before the coupons or orders for registered interest to which they may be attached shall be paid.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1956.)

[Mimeographed and erroneously numbered T. D. 1942.

Income tax.

Inquiries relative to the income tax covered by regulations and rulings to be answered by collectors.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., February 14, 1914.

To collectors of internal revenue:

A large part of the volume of correspondence coming to this office asking for information relative to making return and ascertainment

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of net income, etc., for the income tax, is sufficiently covered by regulations, and should be answered in the offices of collectors.

Collectors have been furnished with copies of Regulations No. 33, and will be advised from time to time of additional rulings in income-tax matters.

Collectors are therefore advised that letters coming to this office asking for information which should be supplied by collectors in accordance with instructions and regulations furnished them, will be referred to collectors for reply and writers of the letters advised of the reference. Collectors, upon receipt of letter referred to them by this office, will give immediate attention to the subject matter of the inquiry, in accordance with the regulations and instructions bearing upon the same.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 1957.)

Income tax.

Partnerships are not subject to income tax, but are required to file certificates of ownership of bonds, etc., in connection with coupon and registered interest payments to prevent withholding of their income at the source.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 12, 1914.

To collectors of internal revenue:

Referring to the following provision in paragraph D of the income-tax law—

That any persons carrying on business in partnership shall be liable for income tax only in their individual capacity, and the share of the profits of a partnership to which any taxable partner would be entitled if the same were divided, whether divided or otherwise, shall be returned for taxation and the tax paid, under the provisions of this section, and any such firm, when requested by the Commissioner of Internal Revenue, or any district collector, shall forward to him a correct statement of such profits and the names of the individuals who would be entitled to the same, if distributed—

it is held that the income of partnerships per se is not subject to the income tax. The provisions of the law "relating to the deduction and payment of the tax at the source of income" do not apply to the income of partnerships as such. Taxable members of partnerships will be required to account, in their individual returns, for their respective shares or interest in the partnership profits, whether the same are divided and distributed or not.

Partnerships owning "bonds and mortgages, or deeds of trust, and other similar obligations of corporations, joint stock companies or associations, and insurance companies," shall file certificates of

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ownership, in Form 1001, evidencing the fact of partnership ownership when presenting for collection or payment coupons or interest orders for interest upon said obligations; and when such certificates are filed, the tax on such interest payments to partnerships shall not be withheld.

The last sentence in article 14, page 35, and article 47 of Income Tax Regulations No. 33, providing for claim by partnerships for deduction for legitimate expense incurred in conducting the business of a partnership, are hereby superseded and repealed.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1958.)

Special employees' diaries.

Special employees' monthly diaries on Form 63½a to show specific duties performed and expenses incurred.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 10, 1914.

To revenue agents and special employees:

In complying with instructions contained in T. D. 1952, dated February 27, 1914, in the matter of rendering trimonthly diary reports, special employees will execute Form 63½a in the manner outlined below, in order that a complete accounting may be made of all expenses incurred and the duties performed during the month covered by the report, the original to be sent to the Commissioner of Internal Revenue with Form 10, the memorandum copy to be retained by the revenue agent under whose direction the services were rendered.

At the top of the page of Form 63½a, the special employee should note the place of his legal residence.

Form 63½a should be a diary of the official transactions of the special employee. The first entry on each day should show the name of the town in which the special employee is located or which he is canvassing. There must be a concise statement of the duties performed, and there should be clearly shown the hour of arrival at and departure from the revenue agent's headquarters and all other towns visited; the names of all persons visited and the object of the visit; the number of miles traveled, and the specific expenses incurred. The name of the person from whom any livery, meals, or lodgings

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are procured should be given whether a voucher for the expense is required or not. Charges for sleeping and parlor car service must be supported by passenger's checks.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. McADOO,
Secretary of the Treasury.

(T. D. 1959.)

Distilled spirits—Distillery warehouses—Decision of United States Supreme Court.

1. DISTILLERY WAREHOUSES.
Law stated relative to distillery warehouses and control of spirits therein.

2. WAREHOUSE CERTIFICATES.
Warehouse certificates represent spirits in warehouse, and ownership of the spirits in store under governmental control are transferred by delivery of such documents.

3. LIEN ON SPIRITS IN WAREHOUSE.
Where spirits in bonded warehouse are pledged to a bank as security for money borrowed, and the owner is adjudicated bankrupt, the lien of the bank on the spirits is superior to the claim of the trustee in bankruptcy.

4. DECISION OF LOWER COURTS AFFIRMED.
The decisions of the United States District Court (176 Fed., 606) and the United States Circuit Court of Appeals (187 Fed., 689) are affirmed.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 12, 1914.

The appended decision of the United States Supreme Court in the case of Joseph A. Taney, trustee of the estate of the Miller Pure Rye Distilling Co., appellant, *v.* Penn National Bank, of Reading, is published for the information of internal-revenue officers and others concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

SUPREME COURT OF THE UNITED STATES. NO. 115. OCTOBER TERM, 1913.

Joseph A. Taney, trustee of the estate of the Miller Pure Rye Distilling Co., appellant, v. *Penn National Bank of Reading.*

APPEAL from the United States Circuit Court of Appeals for the Third Circuit.

[January 26, 1914.]

Mr. Justice HUGHES delivered the opinion of the court:

On February 8, 1908, a petition in bankruptcy was filed against the Miller Pure Rye Distilling Co.; it was adjudicated a bankrupt on February 19, 1908, and the appellant was appointed trustee. The Penn National Bank, of Reading, Pa., the appellee, intervened in the bankruptcy proceeding with a petition asking for the

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delivery to it of 200 barrels of whisky stored in the bonded warehouse of the distilling company upon the ground that the property had been lawfully pledged by the company to the bank. The District Court sustained the lien and accordingly held the claimant entitled to the delivery sought (176 Fed., 606), and on appeal this decree was affirmed by the Circuit Court of Appeals (187 Fed., 689).

The pertinent facts are these: On August 27, 1907, the bank lent to the distilling company $2,500, for which the company gave its four months' note, reciting the deposit with the bank, as collateral security, of "200 bbls. whisky in bonded warehouse at Womelsdorf, Pa., as per Warehouse Rects. gauger's ctf. &c. accompanying." The form of the receipts is shown by the following copy of one of them:

No. 5454. 25 Bbls.

First District of Pennsylvania.
United States Internal Revenue Distillery Bonded Warehouse of Miller Pure Rye Distilling Company.

Ryeland, Berks Co., Pa., August 26th, 1907.

Received on Storage from Ourselves Twenty-five (25) Barrels of Miller Pure Rye Whiskey Distilled, Marked and Numbered as per Record Attached, Subject to our Order and Risk of Loss or Damage by Fire, The Elements, Leakage, Evaporation or Accident, Deliverable only upon Surrender of this Certificate, Payment of Tax and other Charges due Thereon, and Storage at the Rate of Five Cents per Barrel per month, from August 26th, 1907.

Inspection Spring 1907.
Stored in Warehouse No. 2.
Serial Nos. of Packages 7964/7988.

Miller Pure Rye Distilling Co.,
S. V. NAGLE, President.

Address all Communications to Miller Pure Rye Distilling Company, Philadelphia, Pa.

Special Notice—Particular care should be taken of this Certificate as the whiskey cannot be delivered without its surrender.

These receipts were indorsed by the company, and, with the gauger's certificates, were delivered to the bank. The whisky itself was not actually delivered and remained in the bonded warehouse. The note not being paid at maturity, the bank upon notice sold the warehouse receipts at public sale on February 5, 1908, and became the purchaser. This sale, however, is not material to the present question, which turns upon the validity of the lien.

There is no doubt as to the intention and actual good faith of the parties. The loan was made in reliance upon the designated security and the ground of attack is that the lien failed for want of delivery of possession.

The legal effect of the transaction depends upon the local law. Thompson *v.* Fairbanks (196 U. S., 516); Humphrey *v.* Tapman (198 U. S., 91); York Manufacturing Co. *v.* Cassell (201 U. S., 344); Hiscock *v.* Varick Bank (206 U. S., 28); Security Warehousing Co. *v.* Hand (206 U. S., 415, 425); Bryant *v.* Swofford Bros. (214 U. S., 279).

Reviewing the decisions of the Supreme Court of Pennsylvania with respect to sales—the principles of which were deemed to be applicable—the Circuit Court of Appeals reached the following conclusion:

It suffices to say that the law of Pennsylvania in respect of the question we are now considering is settled by a line of cases extending through nearly a century. Starting with the policy of the statute of Elizabeth, for the circumvention of fraud and deceit in sales of personal property (which nowhere in terms refers to retention of possession by a vendor), it has wisely developed the spirt of that statute and evolved the salutary rule, that where there is nothing in the case but the retention of a physical possession by the vendor, which he is capable of delivering to the vendee, such retention is fraud per se, and not merely evidence of fraud, even though there be nothing inconsistent with the most perfect honesty. But this rule is not applied by the courts of Pennsylvania to cases where the inherent nature of the transaction and the attendant circumstances are such as to preclude the possibility of a delivery by the vendor, that would be consistent with the avowed and fair purpose of the sale, or where the absence of a physical delivery is excused by the usages of the trade or business in which the sale was made. (187 Fed., 689, 696.)

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We entertain no doubt as to the correctness of this statement. Clow *v.* Woods (5 S. & R., 277); Barr *v.* Reitz (53 Pa., 256); McKibbin *v.* Martin (64 Pa., 352), Crawford *v.* Davis (99 Pa., 576); Stephens *v.* Gifford (137 Pa., 219); Pressel *v.* Bice (142 Pa., 263); Garretson *v.* Hackenberg (144 Pa., 107); Barlow *v.* Fox (203 Pa., 114); White *v.* Gunn (205 Pa., 229); and it was in the light of these principles that the court below held that, considering the situation of the property and the usages of the business, the transaction in question was valid.

To insure collection of the heavy tax that is laid upon distilled spirits, the production is carefully supervised and the product is impounded. (Revised Statutes, secs. 3247–3334, as amended; act of May 28, 1880, ch. 108, 21 Stat., 145; act of Aug. 27, 1894, ch. 349, secs. 48–67, 28 Stat., 509, 563–568.)

Every distiller is required to provide, at his own expense, "a warehouse, to be situated on and to constitute a part of his distillery premises, and to be used only for the storage of distilled spirits of his own manufacture until the tax thereon shall have been paid." This warehouse, when approved by the Commissioner of Internal Revenue, is declared by the statute to be "a bonded warehouse of the United States, to be known as a distillery warehouse," and is "under the direction and control of the collector of the district, and in charge of an internal-revenue storekeeper, assigned thereto by the commissioner" (sec. 3271). While the statute provides that "every distillery warehouse shall be in the joint custody of the storekeeper and the proprietor thereof," the control of the Government's representative is made dominant, as in the nature of the case it must be in order to fulfill the purposes of the act. The warehouse, the statute continues, "shall be kept securely locked, and shall at no time be unlocked or opened, or remain open unless in the presence of such storekeeper or other person who may be designated to act for him, as provided by law; and no articles shall be received in or delivered from such warehouse except on an order or permit addressed to the storekeeper and signed by the collector having control of the warehouse" (sec. 3274).

Under the departmental regulations "the only lock to the warehouse door must be the Government lock, the key of which must at all times be in charge of the storekeeper." There must be an immediate removal of the distilled spirits to the distillery warehouse as soon as they are drawn into casks or packages and gauged, proved, and marked, as required, and thereupon the internal revenue gauger "shall, in the presence of the storekeeper of the warehouse, place upon the head of the cask or package an engraved stamp, which shall be signed by the collector of the district and the storekeeper and gauger; and shall have written thereon the number of proof gallons contained therein, the name of the distiller, the date of the receipt in the warehouse, and the serial number of each cask or package, in progressive order, as the same are received from the distillery." (Sec. 3287; act of May 28, 1880, ch. 108, sec. 6.) The spirits must be entered for deposit in the warehouse under the regulations prescribed by the commissioner and bond must be given for the payment of the tax. The statute gives the form of the entry which, made in triplicate and duly verified, must set forth the name of the person making it, the designation of the warehouse, the specification of the spirits deposited, with the marks and serial numbers of the packages, etc., and a statement of the amount of tax. Withdrawal may be made on payment of the tax—which is payable within eight years—by application to the collector in charge of the warehouse and the making of a withdrawal entry. (Secs. 3293, 3294; act of May 28, 1880, ch. 108, secs. 4, 5; act of Aug. 27, 1894, ch. 349, sec. 49.) Provision is made for regauging and for an allowance for loss from leakage or evaporation (*Id.*, sec. 50; act of Mar. 3, 1899, ch. 435, 30 Stat., 1349; act of Jan. 13, 1903, ch. 134, 32 Stat., 770); and after four years the spirits may be bottled in bond, in a separate portion of the warehouse set apart for that purpose, under the supervision of the Government official (act of Mar. 3, 1897, ch. 379, 29 Stat., 626). The storekeeper is to keep "a warehouse book" in which all deposits and deliveries are to be entered, with appropriate descrip-

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tion, including marks and serial numbers (sec. 3301). And the removal "of any distilled spirits from a distillery warehouse * * * in any manner other than is provided by law" is punishable by fine and imprisonment (sec. 3296).

The minute regulations of the statute, and the provision for prolonged governmental control, proceed upon a recognition of the exigencies of the business. It is a matter of common knowledge that the product is not ready to be marketed for consumption when it is drawn from the still. It must undergo an aging process, and for this purpose it is kept in store for several years. In laying the tax, Congress has taken this necessity into consideration permitting a long postponement of the required payment, the spirits meanwhile being held in charge of the Government's representative. It is, however, a matter of obvious business importance that the distiller should be able to release the capital represented in the cost of production of the spirits in store and to make it available for further production; and hence the practice is well established to deal with the product in the bonded warehouse by sale or pledge, storage certificates suitably identifying the property being delivered in lieu of the actual transfer of possession. The District Court found as a fact that it is "the unbroken custom of the trade to treat storage receipts for spirits as completely equivalent to the spirits themselves, and to sell or pledge them freely without question." This finding is approved by the Circuit Court of Appeals, and the fact that this custom exists we understand to be undisputed.

It is argued for the appellant that one can not make himself a warehouseman of his own goods and issue so-called receipts to take the place of the delivery which the law requires to give effect to his sale or pledge. Security Warehouse Co. *v.* Hand (206 U. S., 415, 422); Bank *v.* Jagode (186 Pa., 556). The argument ignores the special circumstances of the case and the restrictions imposed by law upon the distiller. The building is his, but the Government is in complete control. The spirits are his, but he is subject to fine and imprisonment if he attempts to remove them. It is undoubtedly true that the Government is not strictly a bailee. It assumes no responsibility to the distiller for the safe-keeping of the goods. United States *v.* Whitten (143 U. S., 76, 78). But the immunity which is incident to the exercise of governmental power in no way limits its effect upon the distiller's relation to the goods. They are effectually taken out of his power so that he is absolutely unable to make a physical delivery of them until the tax is paid. On the other hand, to pay the tax and remove the property before the aging process is completed would defeat the object of the deposit for which the statute provides, and would frustrate the purpose of a transfer of spirits in bond, which is an entirely lawful transaction. In these circumstances, the certificates—such as were here used—appropriately represent the property.

It is said that the distiller need not use his own warehouse, but may place the goods in one of the general bonded warehouses established under the act of 1894 (28 Stat., 564, 565). The appellee asserts that this would be impracticable; that no general bonded warehouse had been established in the collection district in question; that there are only 12 in the entire country, with a capacity that is extremely small in comparison with the output of the distilleries. But, aside from this, the distillery warehouse is equally recognized by law; it is "a bonded warehouse of the United States." If it is a fit place for storage, the distiller is not obliged to remove the spirits elsewhere. And while they are thus deposited in conformity with law he is not debarred from passing title or creating a special interest by way of pledge.

The fundamental objection is that the custom, to which the entire trade is adjusted, is opposed to public policy. But we know of no ground for thus condemning honest transactions which grow out of the recognized necessities of a lawful business. The case is not one where credit may be assumed to be given upon the faith of the ostensible ownership of goods in the debtor's possession. Everyone dealing with distillers is familiar with the established practice in accordance with which spirits are held in store, under governmental control, and are transferred by the delivery of such docu-

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ments as we have here. There is no warrant for saying that creditors are misled by delusive appearances. The usage serves a fair purpose and there is no public policy which requires that the trade should be thrown into disorder by a refusal to uphold it. It is urged that frauds may be perpetrated by the duplication of such documents; but the present dispute does not call for the determination of the equities as between two innocent purchasers. We are concerned here simply with the rights of creditors represented by a trustee in bankruptcy, and we agree with the court below in its conclusion that, in the circumstances disclosed, his right is inferior to that of the appellee.

The decree is *affirmed*.

(T. D. 1960.)

Income tax.

Corporations are allowed by law to deduct interest actually accrued and paid within the year on an amount not in excess of paid-up capital stock outstanding at the close of the year, plus one-half the interest-bearing indebtedness then also outstanding.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 18, 1914.

To collectors of internal revenue:

Your attention is called to that provision of the income-tax law designated as the third deduction, subdivision (*b*), paragraph G, reading as follows:

The amount of interest accrued and paid within the year on its indebtedness to an amount of such indebtedness not exceeding one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock outstanding at the close of the year, and if no paid-up capital stock, the amount of interest paid within the year on an amount of its indebtedness not exceeding the amount of capital employed in the business at the close of the year.

It is held that in the case of a corporation having capital stock this deductible interest is interest actually accrued and paid within the year on an amount of indebtedness not exceeding the paid-up capital stock outstanding at the close of the year, increased by the addition thereto of one-half the interest-bearing indebtedness outstanding at the close of the year.

The qualifying phrase, "outstanding at the close of the year," appearing in the foregoing quotation, is held to apply to both paid-up capital stock and indebtedness, and "one-half the sum of" qualifies only the indebtedness, which indebtedness, like the paid-up capital stock, is required by the law to be reported, in making return of annual net income, as outstanding at the close of the year.

If no indebtedness is outstanding at the close of the year, the maximum deduction allowable on account of interest paid will be the amount of interest actually accrued and paid on an amount of indebtedness not exceeding at any time within the year the entire paid-up capital stock outstanding at the close of the taxable year;

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that is, in such case, the paid-up capital stock outstanding at the close of the year measures the highest amount of indebtedness upon which deductible interest can be computed.

For the purpose of an allowable deduction, interest on the maximum amount of indebtedness, determined in the manner above indicated, can be computed upon such amount only for the time during which such amount of indebtedness is not in excess of the paid-up capital stock, increased by one-half the sum of the interest-bearing indebtedness outstanding at the close of the year.

In any event, the amount of interest, in order to constitute an allowable deduction, must not only be within the limit of the law as herein defined, but must have actually accrued and been paid within the year for which the return is made.

In cases where no capital stock exists, the limitation as to deduction is confined to interest actually paid on an amount of indebtedness not exceeding at any time during the year the capital employed in the business at the close of the year.

Any provision in the regulations heretofore issued inconsistent with the foregoing is hereby revoked.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1961.)

Income tax—Fiduciaries.

Forms 1015 and 1019 may be adapted so that but one certificate will be required to be filed with coupons from the same issue of bonds, the property of different estates or trusts.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 19, 1914.

To collectors of internal revenue:

Under income-tax regulations No. 33, articles 39 and 70, fiduciaries are required to file certificates on Form 1015 or Form 1019, according to the nature of the claim to be made by the fiduciary, for each issue of bonds and for each trust.

It is therefore provided that where fiduciaries have the custody and control of more than one estate or trust, and said estates or trusts have as assets bonds of corporations, etc., of the same issue, said fiduciaries may adapt certificates Form 1015 or Form 1019 by changing the words "estate or trust" in lines 2 and 3 of said forms to the plural, and inserting in the blank space provided in line 3 of said

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forms for the *description of the estate or trust* the words "As noted on the back hereof." In such cases the notation on the back of the certificate should show for each estate or trust (*a*) the name of the estate or trust, (*b*) the amount of the bond, (*c*) the amount of the interest. In all other respects the certificates should be filled out as indicated thereon.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1962.)

Income tax.

Information contained in income-tax returns to be treated as inviolably confidential.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C. March 20, 1914.

To collectors of internal revenue, internal-revenue agents, and others concerned:

The attention of collectors of internal revenue, internal-revenue agents, and other officers concerned is invited to section 3167 of the United States Revenue Statutes, which prohibits the disclosure of information contained in income and other returns of internal-revenue taxpayers.

All internal-revenue officers will preserve as inviolably confidential all income-tax returns, as the slightest infraction of law upon this subject will be severely punished.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 1963.)

Acceptance of certified checks in payment of internal-revenue taxes.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 18, 1914.

SIR: This office is in receipt of your letter of the 16th instant in reference to certified checks offered in payment of internal-revenue taxes and to the refusal of your depository to accept such checks where you indorse the same "*without recourse.*"

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In reply you are informed that such qualified indorsement is unnecessary, and that any instructions on Forms 17, 21, and 647 contrary to this view are hereby rescinded.

In this connection attention is called to the act of March 2, 1911 (p. 108, Comp., 1911), respecting such checks not duly paid by the bank certifying to the same.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

COLLECTOR FIRST DISTRICT, *Brooklyn, N. Y.*

(T. D. 1964.)

Searches and seizures—Decision of United States Supreme Court.

1. UNREASONABLE SEARCHES AND SEIZURES.

The fourth amendment to the Constitution puts Federal officials under limitations and restraints and secures the people, their persons, houses, papers, and effects against all unreasonable searches and seizures under the guise of law. Efforts of officials to bring the guilty to punishment are not to be aided by a sacrifice of this principle embodied in the fundamental law.

2. SEIZURE OF CORRESPONDENCE.

The seizure of private correspondence by a United States marshal holding no warrant for arrest and none for search of premises is unauthorized.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 23, 1914.

The appended decision of the Supreme Court of the United States in the case of Fremont Weeks, plaintiff in error, *v.* United States, defendant in error, is published for the information of internal-revenue officers and others concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

SUPREME COURT OF THE UNITED STATES. No. 461. OCTOBER TERM, 1913.

Fremont Weeks, plaintiff in error, v. *United States.*

IN ERROR to the District Court of the United States for the Western District of Missouri.

[February 24, 1914.]

Mr. Justice DAY delivered the opinion of the court:

An indictment was returned against the plaintiff in error, defendant below, and herein so designated, in the District Court of the United States for the Western District of Missouri containing nine counts. The seventh count, upon which a conviction was had, charged the use of the mails for the purpose of transporting certain coupons or tickets representing chances or shares in a lottery or gift enterprise in violation of section 213 of the Criminal Code. Sentence of fine and imprisonment was imposed. This writ of error is to review that judgment.

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The defendant was arrested by a police officer, so far as the record shows, without warrant, at the Union Station in Kansas City, Mo., where he was employed by an express company. Other police officers had gone to the house of the defendant, and being told by a neighbor where the key was kept, found it and entered the house. They searched the defendant's room and took possession of various papers and articles found there, which were afterwards turned over to the United States marshal. Later in the same day police officers returned with the marshal, who thought he might find additional evidence, and, being admitted by some one in the house, probably a boarder, in response to a rap, the marshal searched the defendant's room and carried away certain letters and envelopes found in the drawer of a chiffonier. Neither the marshal nor the police officer had a search warrant.

The defendant filed in the cause before the time for trial the following petition:

Petition to return private papers, books, and other property.

Now comes defendant and states that he is a citizen and resident of Kansas City, Missouri, and that he resides, owns, and occupies a home at 1834 Penn Street in said city;

That on the 21st day of December, 1911, while plaintiff was absent at his daily vocation, certain officers of the Government, whose names are to plaintiff unknown, unlawfully and without warrant or authority so to do, broke open the door to plaintiff's said home and seized all of his books, letters, money, papers, notes, evidences of indebtedness, stock, certificates, insurance policies, deeds, abstracts, and other muniments of title, bonds, candies, clothes, and other property in said home, and this in violation of sections 11 and 23 to the constitution of Missouri and of the fourth and fifth amendments to the Constitution of the United States.

That the district attorney, marshal, and clerk of the United States Court for the Western District of Missouri took the above-described property so seized into their possession and have failed and refused to return to defendant portion of same, to wit:

One (1) leather grip, value about $7; one (1) tin box valued at $3; one (1) Pettis County, Missouri, bond, value $500; three (3) mining stock certificates which defendant is unable to more particularly describe, valued at $12,000; and certain stock certificates in addition thereto issued by the San Domingo Mining Loan and Investment Company, about $75 in currency; one (1) newspaper published about 1790, an heirloom; and certain other property which plaintiff is now unable to describe.

That said property is being unlawfully and improperly held by said district attorney, marshal, and clerk in violation of defendant's rights under the Constitution of the United States and the State of Missouri.

That said district attorney purposes to use said books, letters, papers, certificates of stock, etc., at the trial of the above entitled cause, and that by reason thereof and of the facts above set forth defendant's rights under the amendments aforesaid to the constitution of Missouri and the United States have been and will be violated unless the court order the return prayed for;

Wherefore, defendant prays that said district attorney, marshal, and clerk be notified, and that the court direct and order said district attorney, marshal, and clerk to return said property to said defendant.

Upon consideration of the petition the court entered in the cause an order directing the return of such property as was not pertinent to the charge against the defendant, but denied the petition as to pertinent matter, reserving the right to pass upon the pertinency at a later time. In obedience to the order the district attorney returned part of the property taken and retained the remainder, concluding a list of the latter with the statement that "all of which last above-described property is to be used in evidence in the trial of the above-entitled cause, and pertains to the alleged sale of lottery tickets of the company above named."

After the jury had been sworn and before any evidence had been given, the defendant again urged his petition for the return of his property, which was denied by the court. Upon the introduction of such papers during the trial the defendant objected on the ground that the papers had been obtained without a search warrant and by breaking open his home in violation of the fourth and fifth amendments to the Constitution of the United States, which objection was overruled by the court. Among the

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papers retained and put in evidence were a number of lottery tickets and statements with reference to the lottery, taken at the first visit of the police to the defendant's room, and a number of letters written to the defendant in respect to the lottery, taken by the marshal upon his search of defendant's room.

The defendant assigns error, among other things, in the court's refusal to grant his petition for the return of his property and in permitting the papers to be used at the trial.

It is thus apparent that the question presented involves the determination of the duty of the court with reference to the motion made by the defendant for the return of certain letters, as well as other papers taken from his room by the United States marshal, who, without authority of process, if any such could have been legally issued, visited the room of the defendant for the declared purpose of obtaining additional testimony to support the charge against the accused, and having gained admission to the house took from the drawer of a chiffonier there found certain letters written to the defendant, tending to show his guilt. These letters were placed in the control of the district attorney and were subsequently produced by him and offered in evidence against the accused at the trial. The defendant contends that such appropriation of his private correspondence was in violation of rights secured to him by the fourth and fifth amendments to the Constitution of the United States. We shall deal with the fourth amendment, which provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation and particularly describing the place to be searched, and the persons or things to be seized.

The history of this amendment is given with particularity in the opinion of Mr. Justice Bradley, speaking for the court in Boyd *v.* United States (116 U. S., 616). As was there shown, it took its origin in the determination of the framers of the amendments to the Federal Constitution to provide for that instrument a Bill of Rights, securing to the American people, among other things, those safeguards which had grown up in England to protect the people from unreasonable searches and seizures, such as were permitted under the general warrants issued under authority of the government by which there had been invasions of the home and privacy of the citizens and the seizure of their private papers in support of charges, real or imaginary, made against them. Such practices had also received sanction under warrants and seizures under the so-called writs of assistance, issued in the American Colonies. See 2 Watson on the Constitution (1414 et seq). Resistance to these practices had established the principle which was enacted into the fundamental law in the fourth amendment, that a man's house was his castle and not to be invaded by any general authority to search and seize his goods and papers. Judge Cooley, in his Constitutional Limitations (pages 425, 426), in treating of this feature of our Constitution, said: "The maxim that 'every man's house is his castle' is made a part of our constitutional law in the clauses prohibiting unreasonable searches and seizures, and has always been looked upon as of high value to the citizen." "Accordingly," says Lieber in his work on Civil Liberty and Self-Government (62), in speaking of the English law in this respect, "no man's house can be forcibly opened, or he or his goods be carried away after it has thus been forced, except in cases of felony, and then the sheriff must be furnished with a warrant, and take great care lest he commit a trespass. This principle is jealously insisted upon." In Ex parte Jackson (96 U. S., 727, 733), this court recognized the principle of protection as applicable to letters and sealed packages in the mails, and held that consistently with this guaranty of the right of the people to be secure in their papers against unreasonable searches and seizures such matter could only be opened and examined upon warrants issued on oath or affirmation, particularly describing the thing to be seized, "as is required when papers are subjected to search in one's own household."

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In the Boyd case, supra, after citing Lord Camden's judgment in Entick *v.* Carrington (19 How. St. Tr., 1029), Mr. Justice Bradley said (630):

The principles laid down in this opinion affect the very essence of constitutional liberty and security. They reach farther than the concrete form of the case then before the court, with its adventitious circumstances; they apply to all invasions on the part of the Government and its employees of the sanctity of a man's home and the privacies of life. It is not the breaking of his doors, and the rummaging of his drawers, that constitutes the essence of the offense; but it is the invasion of his indefeasible right of personal security, personal liberty, and private property, where that right has never been forfeited by his conviction of some public offense—it is the invasion of this sacred right which underlies and constitutes the essence of Lord Camden's judgment.

In Bram *v.* United States (168 U. S., 532), this court in speaking, by the present Chief Justice, of Boyd's case, dealing with the fourth and fifth amendments, said (544):

It was in that case demonstrated that both of these amendments contemplated perpetuating, in their full efficacy, by means of a constitutional provision, principles of humanity and civil liberty, which had been secured in the mother country only after years of struggle, so as to implant them in our institutions in the fullness of their integrity, free from the possibilities of future legislative change.

The effect of the fourth amendment is to put the courts of the United States and Federal officials, in the exercise of their power and authority, under limitations and restraints as to the exercise of such power and authority, and to forever secure the people, their persons, houses, papers, and effects against all unreasonable searches and seizures under the guise of law. This protection reaches all alike, whether accused of crime or not, and the duty of giving to it force and effect is obligatory upon all intrusted under our Federal system with the enforcement of the laws. The tendency of those who execute the criminal laws of the country to obtain conviction by means of unlawful seizures and enforced confessions, the latter often obtained after subjecting accused persons to unwarranted practices destructive of rights secured by the Federal Constitution, should find no sanction in the judgments of the courts, which are charged at all times with the support of the Constitution and to which people of all conditions have a right to appeal for the maintenance of such fundamental rights.

What, then, is the present case? Before answering that inquiry specifically it may be well by a process of exclusion to state what it is not. It is not an assertion of the right on the part of the Government, always recognized under English and American law, to search the person of the accused when legally arrested to discover and seize the fruits or evidences of crime. This right has been uniformly maintained in many cases. 1 Bishop on Criminal Procedure (sec. 211); Wharton Crim. Plead. and Practice (8th ed., sec. 60); Dillon *v.* O'Brien and Davis (16 Cox C. C., 245). Nor is it the case of testimony offered at a trial where the court is asked to stop and consider the illegal means by which proofs, otherwise competent, were obtained—of which we shall have occasion to treat later in this opinion. Nor is it the case of burglar's tools or other proofs of guilt found upon his arrest within his control.

The case in the aspect in which we are dealing with it involves the right of the court in a criminal prosecution to retain for the purposes of evidence the letters and correspondence of the accused, seized in his house in his absence and without his authority, by a United States marshal holding no warrant for his arrest and none for the search of his premises. The accused, without awaiting his trial, made timely application to the court for an order for the return of these letters, as well as other property. This application was denied, the letters retained and put in evidence, after a further application at the beginning of the trial, both applications asserting the rights of the accused under the fourth and fifth amendments to the Constitution. If letters and private documents can thus be seized and held and used in evidence against a citizen accused of an offense, the protection of the fourth amendment declaring his

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right to be secure against such searches and seizures is of no value, and, so far as those thus placed are concerned, might as well be stricken from the Constitution. The efforts of the courts and their officials to bring the guilty to punishment, praiseworthy as they are, are not to be aided by the sacrifice of those great principles established by years of endeavor and suffering which have resulted in their embodiment in the fundamental law of the land. The United States marshal could only have invaded the house of the accused when armed with a warrant issued as required by the Constitution, upon sworn information and describing with reasonable particularity the thing for which the search was to be made. Instead, he acted without sanction of law, doubtless prompted by the desire to bring further proof to the aid of the Government, and under color of his office undertook to make a seizure of private papers in direct violation of the constitutional prohibition against such action. Under such circumstances, without sworn information and particular description, not even an order of court would have justified such procedure, much less was it within the authority of the United States marshal to thus invade the house and privacy of the accused. In Adams *v.* New York (192 U. S., 585), this court said that the fourth amendment was intended to secure the citizen in person and property against unlawful invasion of the sanctity of his home by officers of the law acting under legislative or judicial sanction. This protection is equally extended to the action of the Government and officers of the law acting under it. (Boyd case, supra.) To sanction such proceedings would be to affirm by judicial decision a manifest neglect, if not an open defiance of the prohibitions of the Constitution, intended for the protection of the people against such unauthorized action.

The court before which the application was made in this case recognized the illegal character of the seizure and ordered the return of property not in its judgment competent to be offered at the trial, but refused the application of the accused to turn over the letters, which were afterwards put in evidence on behalf of the Government. While there is no opinion in the case, the court in this proceeding doubtless relied upon what is now contended by the Government to be the correct rule of law under such circumstances, that the letters having come into the control of the court it would not inquire into the manner in which they were obtained, but if competent would keep them and permit their use in evidence. Such proposition, the Government asserts, is conclusively established by certain decisions of this court, the first of which is Adams *v.* New York, supra. In that case the plaintiff in error had been convicted in the Supreme Court of the State of New York for having in his possession certain gambling paraphernalia used in the game known as policy in violation of the Penal Code of New York. At the trial certain papers, which had been seized by police officers executing a search warrant for the discovery and seizure of policy slips and which had been found in addition to the policy slips, were offered in evidence over his objection. The conviction was affirmed by the Court of Appeals of New York (176 N. Y., 351), and the case was brought here for alleged violation of the fourth and fifth amendments to the Constitution of the United States. Pretermitting the question whether these amendments applied to the action of the States, this court proceeded to examine the alleged violations of the fourth and fifth amendments, and put its decision upon the ground that the papers found in the execution of the search warrant, which warrant had a legal purpose in the attempt to find gambling paraphernalia, was competent evidence against the accused, and their offer in testimony did not violate his constitutional privilege against unlawful search or seizure, for it was held that such incriminatory documents thus discovered were not the subject of an unreasonable search and seizure, and in effect that the same were incidentally seized in the lawful execution of a warrant and not in the wrongful invasion of the home of the citizen and the unwarranted seizure of his papers and property. It was further held, approving in that respect the doctrine laid down in 1 Greenleaf (section 254a), that it was no valid objection to the use of the papers that they had been thus seized, and that the courts

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.n the course of a trial would not make an issue to determine that question, and many State cases were cited supporting that doctrine.

The same point had been ruled in People *v.* Adams (176 N. Y., 351), from which decision the case was brought to this court, where it was held that if the papers seized in addition to the policy slips were competent evidence in the case, as the court held they were, they were admissible in evidence at the trial, the court saying (p. 358): "The underlying principle obviously is that the court, when engaged in trying a criminal cause, will not take notice of the manner in which witnesses have possessed themselves of papers, or other articles of personal property, which are material and properly offered in evidence." This doctrine thus laid down by the New York Court of Appeals and approved by this court, that a court will not in trying a criminal cause permit a collateral issue to be raised as to the source of competent testimony, has the sanction of so many State cases that it would be impracticable to cite or refer to them in detail. Many of them are collected in the note to State *v.* Turner (136 Am. St. Rep., 129, 135 et seq.). After citing numerous cases the editor says: "The underlying principle of all these decisions obviously is that the court when engaged in the trial of a criminal action will not take notice of the manner in which a witness has possessed himself of papers or other chattels, subjects of evidence, which are material and properly offered in evidence. People *v.* Adams (176 N. Y., 351; 98 Am. St. Rep., 675; 68 N. E., 636; 63 L. R. A., 406). Such an investigation is not involved necessarily in the litigation in chief, and to pursue it would be to halt in the orderly progress of a cause, and consider incidentally a question which has happened to cross the path of such litigation, and which is wholly independent thereof."

It is therefore evident that the Adams case affords no authority for the action of the court in this case when applied to in due season for the return of papers seized in violation of the constitutional amendment. The decision in that cases rests upon incidental seizure made in the execution of a legal warrant and in the application of the doctrine that a collateral issue will not be raised to ascertain the source from which testimony, competent in a criminal case, comes.

The Government also relies upon Hale *v.* Henkel (201 U. S., 43), in which the previous cases of Boyd *v.* United States, supra, Adams *v.* New York, supra, Interstate Commerce Commission *v.* Brimson (154 U. S., 447), and Interstate Commerce Commission *v.* Baird (194 U. S., 25) are reviewed, and wherein it was held that a subpœna duces tecum requiring a corporation to produce all its contracts and correspondence with no less than six other companies, as well as all letters received by the corporation from 13 other companies located in different parts of the United States, was an unreasonable search and seizure within the fourth amendment, and it was there stated that (p. 76) "an order for the production of books and papers may constitute an unreasonable search and seizure within the fourth amendment. While a search ordinarily implies a quest by an officer of the law, and a seizure contemplates a forcible dispossession of the owner, still, as was held in the Boyd case, the substance of the offense is the compulsory production of private papers, whether under a search warrant or a subpœna duces tecum, against which the person, be he individual or corporation, is entitled to protection." If such a seizure under the authority of a warrant supposed to be legal constitutes a violation of the constitutional protection, a fortiori does the attempt of an officer of the United States, the United States marshal, acting under color of his office, without even the sanction of a warrant, constitute an invasion of the rights within the protection afforded by the fourth amendment.

Another case relied upon is American Tobacco Co. *v.* Werckmeister (207 U. S., 284), in which it was held that the seizure by the United States marshal in a copyright case of certain pictures under a writ of replevin did not constitute an unreasonable search and seizure. The other case from this court relied upon is Holt *v.* United States (218 U. S., 245), in which it was held that testimony tending to show that a certain blouse

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which was in evidence as incriminating him had been put upon the prisoner and fitted him, did not violate his constitutional right. We are at a loss to see the application of these cases to the one at hand.

The right of the court to deal with papers and documents in the possession of the district attorney and other officers of the court and subject to its authority was recognized in Wise *v.* Henkel (220 U. S., 556). That papers wrongfully seized should be turned over to the accused has been frequently recognized in the early as well as later decisions of the courts. 1 Bishop on Criminal Procedure (sec. 210); Rex *v.* Barnett (3 C. & P., 600); Rex *v.* Kinsey (7 C. & P., 447); United States *v.* Mills (185 Fed., 318); United States *v.* McHie (194 Fed., 894, 898).

We therefore reach the conclusion that the letters in question were taken from the house of the accused by an official of the United States acting under color of his office in direct violation of the constitutional rights of the defendant; that having made a seasonable application for their return, which was heard and passed upon by the court, there was involved in the order refusing the application a denial of the constitutional rights of the accused, and that the court should have restored these letters to the accused. In holding them and permitting their use upon the trial, we think prejudicial error was committed. As to the papers and property seized by the policemen, it does not appear that they acted under any claim of Federal authority such as would make the amendment applicable to such unauthorized seizures. The record shows that what they did by way of arrest and search and seizure was done before the finding of the indictment in the Federal court, under what supposed right or authority does not appear. What remedies the defendant may have against them we need not inquire, as the fourth amendment is not directed to individual misconduct of such officials. Its limitations reach the Federal Government and its agencies. Boyd case (116 U. S.), supra, and see Twining *v.* New Jersey (211 U. S., 78).

It results that the judgment of the court below must be *reversed*, and the case remanded for further proceedings in accordance with this opinion.

(T. D. 1965.)

Income tax.

Advance payment of tax withheld by withholding agents not to be made prior to 30 days preceding the date on which the annual return is required to be filed.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 23, 1914.

To collectors of internal revenue:

Attention is directed to note A appearing on the bottom of Forms 1012, 1012*c*, 1043, and 1044, providing that—

Withholding agents may, if they so desire, pay at the time this list is filed, to the collector of internal revenue with whom the list is filed, the amount of tax withheld during the *month* for which the list is made,

And to note A, Form 1042, providing that—

The amount of the tax withheld during the *year* for which the list is made, may be paid to the collector at the time the list is filed.

In order that persons whose income tax is deducted and withheld and is to be paid at the source, may have an opportunity to file with

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the source which is required to withhold and pay tax for them certificates claiming the benefit of deductions and exemptions provided for in paragraph B and allowed in paragraph C of the law, withholding agents will not pay to collectors of internal revenue the tax withheld by them under the law until after the time for filing claims for deductions and exemptions has expired. See Regulations No. 33, art. 33, (*a*) and (*b*).

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1966.)

Raisin and pomace wine.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 28, 1914.

SIR: In reply to your letter of the 26th instant you are informed that T. D. 1949, while not sanctioning, does not prohibit the sale or use of raisin or pomace wine, heretofore permitted, provided such wines are actually produced prior to May 1, 1914.

Respectfully, G. E. FLETCHER,
Acting Commissioner of Internal Revenue.

Mr. ——— ———, *Philadelphia, Pa.*

(T. D. 1967.)

Income tax.

Organizations, etc., exempted by the fiirst proviso of paragraph G of section 2 of the act of October 3, 1913, from payment of the income tax, are not subject to the provisions of the income-tax law as withholding agents.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 25, 1914.

To collectors of internal revenue:

This office is in receipt of several communications relative to the duty as withholding agents of religious corporations and other organizations which are specifically enumerated in the first proviso of paragraph G of section 2 of the act of October 3, 1913.

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The language of said proviso is as follows:

That nothing in this section shall apply to labor, agricultural, or horticultural organizations, or to mutual savings banks not having a capital stock represented by shares, or to fraternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, or associations and dependents of such members; nor to domestic building and loan associations; nor to cemetery companies, organized and operated exclusively for the mutual benefit of their members; nor to any corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual; nor to business leagues; nor to chambers of commerce or boards of trade, not organized for profit or no part of the net income of which inures to the benefit of the private stockholder or individual; nor to any civic league or organization not organized for profit but operated exclusively for the promotion of social welfare.

You are therefore advised that the words "this section" are held to refer to and mean the whole of section 2 of the act of October 3, 1913, which section comprises the income-tax law, and that the words "nothing in this section shall apply to" were intended to relieve such organizations, etc., as properly come within the classifications referred to in the proviso quoted, not only from the payment of an income tax but from every obligation or requirement imposed by any or all of the provisions of said section upon withholding agents.

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1968.)

Use of rectified alcohol—Manufacture for export.

Regulations relative to the use of rectified alcohol or other high-proof spirits in the manufacture for export of flavoring extracts, medicinal, or toilet articles under the provisions of paragraph O, section 4, act of October 3, 1913.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., March 23, 1914.

Where alcohol or other high-proof spirit to be used in the manufacture of any of the above-named articles is to be rectified for that purpose, the rectifier, before removing the same from the distiller's original stamped packages, will file with the collector of the district a request for an official inspection and gauge of such spirits, which request will be in the following form:

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(Form *———.)

PART 1.

———— ————, 191–.

To ———— ————, Esq.,

Collector —— district of ———.

You are hereby requested to cause to be inspected and gauged the following-described spirits contained in the distiller's original packages and now stored on my (or our) rectifying premises, located at ———, such spirits to be rectified for use in the manufacture of certain articles for export upon which drawback of tax will be claimed under the provisions of section 4, act of October 3, 1913:

Name of distiller and district.	Kinds of spirits.	Number of packages.	Serial numbers of packages.	Numbers of tax-paid stamps.	Proof gallons.

———— ————, *Rectifier.*

Upon the receipt of the foregoing request the collector will cause the spirits to be carefully inspected by a gauger, who will append to the request made his certificate in the following form:

PART 2.

———— ————, 191–.

I hereby certify that on the —— day of ———, 191–, the above-described packages were carefully examined by me and found to be as described, and to contain —— proof gallons of ———, and that the said spirits were in my presence conveyed directly to a still or receiving tank, containing no other spirits or only such other tax-paid spirits as had been conveyed thereto, in my presence, from distiller's original stamped packages.

And I further certify that on the —— day of ———, 191–, the said spirits, after rectification, were, in my presence, drawn into the following-described packages and were duly inspected by me, as shown by the accompanying detail report on Form 59, and that I believe the same to be the identical spirits previously removed from the distiller's original packages set forth in the accompanying request of ———.

Spirits in rectifier's packages.

Kind of spirits.	Number of packages.	Serial numbers rectifier's stamps.	Wine gallons.	Degree of proof.	Proof gallons.

———— ————, *Gauger.*

The above prescribed form will be required in addition to, and not as a substitute for, Forms 122 and 237.

After the spirits have been rectified and duly inspected the collector of the district will, on application of the rectifier or the manufacturer

* Until printed blanks of this form are furnished typewritten forms may be used.

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using such alcohol, issue his certificate, Form 646, modified[1] as the circumstances require, which certificate *will in every instance be directly transmitted by such collector to the collector of customs to be designated in the application filed.* A duplicate of said certificate will also be forwarded to the Commissioner of Internal Revenue.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1969.)

Alcohol for scientific purposes.

Amending T. D. 1757 prescribing formulas for denaturing alcohol withdrawn for scientific purposes under section 3297, Revised Statutes.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 14, 1914.

To collectors of internal revenue and others concerned:

In order to secure uniformity in the issuance of permits for the withdrawal of alcohol free of tax under section 3297, Revised Statutes, for scientific purposes by incorporated and chartered institutions, and to safeguard the use of such alcohol under the provisions of section 3297, Revised Statutes, and T. D. 1731, permits for such withdrawals will be issued to hospitals and sanitariums to which the privileges of this section have heretofore been extended only on applications which contain in full the formula or formulas embodied in the bond filed for the withdrawal of alcohol for such institutions, which formula or formulas must have been previously approved by the Commissioner of Internal Revenue.

With a view to the destruction of the identity of the alcohol in the chemical laboratories of such institutions, as set forth in article 1, T. D. 1731, the following formulas have been approved by this office, viz:

FOR ANTISEPTIC PURPOSES IN GENERAL.

1. Alum, 10 grains, camphor 3 grains, alcohol 4 ounces.
2. Carbolic acid 1 part, alcohol 99 parts.
3. Formaldehyde 1 part, alcohol 250 parts.
4. Alum 2 ounces, sulphate of zinc 1 ounce, alcohol 1 gallon.
5. Alum 1 dram, camphor 1 ounce, alcohol 1 pint.
6. Bichloride of mercury 1 part, alcohol 2,000 parts.

[1] In addition to the required description of original packages, a description of the packages containing the rectified spirits should be given, showing the name of the rectifier, the wine gallons, degree of proof, proof gallons, and serial numbers of the rectifier's stamps.

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7. Alum 2 ounces, salicylic acid 2 ounces, oil gaultheria 2 ounces, water 1 pint, alcohol q. s. 1 gallon.

8. Carbolic acid 2 drams, oil gaultheria 20 drops, alcohol 1 gallon.

9. Bichloride of mercury 0.8 gram, hydrochloric acid 60 c. c., alcohol 640 c. c., water 300 c. c.

10. Bichloride of mercury 1½ grains, hydrochloric acid 2 drams, alcohol 4 ounces.

11. Bicarbonate of soda 3 ounces, extract of hamamelis 16 ounces, water 16 ounces, alcohol 16 ounces.

12. Formaldehyde 2 parts, glycerin 2 parts, alcohol 96 parts.

13. Oil cajuputi 1 dram, alcohol 1 pint.

14. Tannic acid 12 parts, alcohol 125 parts, water 125 parts.

15. Carbolic acid 1 dram, tannic acid 1 dram, alcohol 1 pint, water 1 pint.

16. Alum ½ ounce, formaldehyde 2 drams, camphor 1 ounce, alcohol and water each 1 pint.

17. Lysol 1 part, alcohol 99 parts.

18. Liquor Cresolis Comp. (U. S. P.), 10 c. c. alcohol 1,000 c. c.

Applicants may incorporate one or more formulas in the conditions of the bonds filed, but are restricted to the use of the alcohol according to the formulas incorporated therein.

Withdrawals will not be permitted under bonds in which a formula does not appear, and applications and bonds should not be submitted to this office for consideration and approval which contain formulas differing from those heretofore mentioned and which have been approved by this office.

As it is the policy of the office not to multiply the number of formulas, and as it is believed that those above set forth will meet all requirements, consideration will not be given to other formulas with a view to their approval and publication.

The instructions herein contained supersede those contained in T. D. 1739, in so far as the same are in conflict therewith.

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

(T. D. 1970.)

Adulterated butter.

A product which comes within the classification of adulterated butter under act of May 9, 1902, where manufactured for export to a foreign country on orders received therefor, and where not in violation of the laws of such country, may be marked, labeled, or branded "Preserved butter."

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 2, 1914.

To collectors of internal revenue and others concerned:

Under the terms of unpublished ruling of June 13, 1912, a product coming within the classification of adulterated butter as defined in the act of May 9, 1902, where manufactured for export to a foreign

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country on orders or specifications received from the foreign customers, may be marked, labeled, or branded "Preserved butter" when not in violation of or in conflict with the laws of the country to which exported, in accordance with the provisions of the pure-food law, act of June 30, 1906, and the regulations made under authority thereof by the Department of Agriculture.

Regulations No. 29, governing the exportation of articles free of tax under the internal-revenue laws, are, therefore, modified accordingly, in respect to the marking and branding of adulterated butter for export.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1971.)

Alcohol for scientific purposes.

Modifying department regulations of November 4, 1911 (T. D. 1731), respecting the use of tax-free alcohol for scientific purposes.

TREASURY DEPARTMENT, *April 20, 1914.*

On a careful examination of the provisions of section 3297, Revised Statutes, authorizing incorporated or chartered scientific institutions or colleges of learning to obtain and use alcohol, free of tax, for certain specified purposes, the term "*chemical laboratory*" as used in said section 3297 is held to include any allied laboratory, such as physical or electrical laboratory, belonging to such institution or college in which the alcohol so obtained is used purely for scientific purposes.

So much of T. D. 1731 as conflicts herewith is hereby repealed.

W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1972.)

Raisin and pomace wines.

Construing T. D. 1949 of February 16, 1914, and T. D. 1966 of March 28, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 21, 1914.

SIR: In reply to your letter of the 14th instant relative to the manufacture of raisin and pomace wine, you are informed that T. D.

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1966, referred to by you, does not authorize the use of *pomace* wine produced prior to May 1, 1914, in the manufacture of spirits or cordials, as such use would be in direct violation of T. D. 1721 and the bond given by the producer of such wine.

Regarding artificial wines in process of manufacture May 1 next, you are informed that the provisions of T. D. 1949 are not intended to apply to such wines which have been separated from the mash prior to that date, although undergoing fermentation, provided no artificial sweetening or other substance is subsequently added which will produce further fermentation.

Respectfully, ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

COLLECTOR FIFTH DISTRICT, *Peoria, Ill.*

(T. D. 1973.)

Income tax.

Revision of Form 1044, monthly list return of amount of normal income tax withheld by first bank or collecting agency.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 21, 1914.

To collectors of internal revenue:

Collectors are hereby advised that Form 1044, for monthly list return of amount of normal tax withheld by first bank or collecting agency, has been revised in the following particulars, so that the tax withheld from interest on bonds of different classes or of more than one organization can be reported thereon:

In the section of reading matter beginning, "To be made in duplicate," in the fourth line thereof, change "coupon" to "coupons," and strike out "and interest orders."

In the last line, next above the tabular list, strike out the blank lines and the words thereunder, "Describe the particular issue of bonds," and "State name and address of debtor organization."

Strike out the headings in the tabular list and substitute therefor, in separate columns, "Party presenting coupons," and immediately thereunder, in separate columns, "Name" and "Address," "Name of debtor corporation," "Name of particular issue of bonds," "Amount of income subject to tax," and "Amount of tax withheld."

Immediately after and under the line of totals of the tabular list there shall be a double rule line. Strike out the words now appearing below the total line of the tabular list on Form 1044, viz, "Amount of tax remitted herewith (if any) to collector," and strike out the dotted

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line following these words, and also the dollar mark on the same line, and strike out the double rule line appearing immediately thereunder.

Strike out all of Note A appearing at the bottom of the form.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1974.)

Income tax.

Change of regulations as to certificates of ownership in connection with interest orders or checks for interest on registered bonds.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 21, 1914.

To collectors of internal revenue:

Articles 41 to 46 of the regulations are hereby amended so as to require, in the case of interest payments on bonds registered as to both principal and interest, that debtors in such cases shall deduct the normal tax of 1 per cent from accruing interest on all such bonds before sending out orders or checks for said interest to registered owners, unless there shall be filed with said debtors, at least five days before the due date of said interest, the prescribed certificates claiming exemption.

Where such certificates are so filed the said debtors shall stamp or write on the interest orders or checks, as the case may be, "*Exemption claimed by certificate filed with debtor.*"

Where prescribed certificates are not so filed, said debtor shall deduct and withhold the normal tax of 1 per cent from the amount of such payment, and shall stamp or write on the interest order or check, as the case may be, "*Income tax withheld by debtor.*"

Responsible banks, bankers, or collecting agents receiving for collection interest orders or checks bearing the aforesaid indorsements may present said interest orders or checks for collection without requiring that certificates of ownership be filed therewith.

Certificates of ownership are not required to accompany interest orders or checks in payment of interest on fully registered bonds, as information as to ownership of bonds will be furnished by debtor organizations on monthly list returns, Form 1012; but claim for exemption must be filed with debtors, or the tax must be withheld; and the form of certificate provided for use of owners of coupon bonds may be used by owners of registered bonds for the purpose of claiming this exemption.

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Where, because of failure to file certificates claiming exemption, in compliance with above regulations, a part of the income from interest on registered bonds has been withheld for the payment of the normal income tax, debtors may, upon the filing of the proper certificates as provided in article 42, Income Tax Regulations, to the extent of exemption claimed, release and pay to the persons entitled thereto the amount of such income so withheld.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1975.)

Denatured alcohol.

Modification of special formula No. 4, to be used in the denaturing of rum for manufacturers of tobacco.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 25, 1914.

SIR: This office, at the request of ——— ———, has decided to modify special formula No. 4, which is used in the denaturing of rum for the use of manufacturers of tobacco. The revised formula is as follows:

No. 4. One gallon of the following solution: Five gallons of an aqueous solution containing 40 per cent nicotine; 0.4 pound acid, yellow dye (fast yellow Y); 0.4 pound tetrazo brilliant blue; 12 B. conct.; water to make 100 gallons.

The tobacco denaturant must conform to the following analytical requirements:

Determination of nicotine.—It must contain not less than 1.88 per cent of nicotine when tested by the following process:

Twenty c. c. of the solution are measured into a 500 c. c. Kjoldahl flask, provided with a suitable bulb tube, 10 c. c. of N/10 alkali added, the liquid made up to 50 c. c., and distilled in a current of steam until the distillate is no longer alkaline (about 500 c. c.). The distillate is then titrated with N/10 H_2SO_4, using rosolic acid as an indicator. Not less than 23.2 c. c. should be required for the neutralization.

Test of coloring matter.—Take 1 c. c. of the denaturant and make up to 100 c. c. with water, acidulating with a few drops of H_2SO_4. Immerse in this solution a piece of white cotton cloth and boil the solution. Continue the process, adding more cloth and more water if necessary, until all the blue color in the solution is fixed on the cloth. Then add a piece of white woolen cloth, and boil the bath as before until all the yellow color is fixed upon the cloth. Both the cotton and woolen cloths should show decided colors—the cotton blue and the woolen yellow.

Intensity of color.—The denaturant solution, when observed in an eighth-inch cell of Lovibond's tintometer, must show a color of an intensity not less than No. 24 yellow combined with No. 3 blue.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

COLLECTOR THIRD DISTRICT, *Boston, Mass.*

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(T. D. 1976.)

Income tax.

Supplemental regulations prescribing revised forms of certificates of ownership, exemption, and substitute certificates in lieu of such certificates now in use.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., May 2, 1914.

The following certificates are prescribed in lieu of certificates now in use, and are to be used in complying with the income-tax regulations requiring the filing of certificates when presenting coupons or interest orders for collection:

Revised Form 1000,

Ownership Certificate—*Individual*—EXEMPTION NOT CLAIMED,

shall be in the following form and shall be printed on white paper:

Form 1000. Revised.

OWNERSHIP CERTIFICATE—INDIVIDUAL—EXEMPTION NOT CLAIMED.

(To be furnished with coupons or interest orders showing ownership of bonds.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)

....., 191.. Amount of coupon or registered interest, $....
(Date of maturity of interest.)

I do solemnly declare that I am a citizen or resident of the United States and am the owner of the above-described bonds from which were detached the accompanying coupons, or from which I am entitled to the above-described registered interest, and that all of the information as given in this certificate is true and correct. I do not now claim exemption from having the normal tax of 1 per cent withheld from said income by the debtor at the source.

Date, ..., 191..

.....
(Usual business signature of owner of bonds.)

.....
(Full post-office address of owner.)

* By .....*Agent.*
(Usual business signature of agent authorized to sign for owner.)

.....
(Full post-office address of agent.)

* NOTE 1.—To be filled in only when duly authorized agent executes this certificate for owner, in which case the name and address of owner must be given, and collecting agent first receiving certificate must stamp across face, "Satisfied as to identity and responsibility of agent" (giving name and address of collecting agent).

NOTE 2.—If securities are owned jointly by several persons one may sign, and the names, addresses, and proportion of ownership of each, indorsed on the back hereof.

NOTE 3.—When numbers of bonds are required to be given, same are to be entered on back hereof.

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

TREASURY DEPARTMENT,
INTERNAL REVENUE—INCOME TAX.

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On the back of said certificate there shall be printed, for the use of joint owners of bonds, the following form, to wit:

JOINT OWNERS.

If securities described on other side are owned jointly, the names and addresses of owners and the proportion of ownership of each should be given.

Names.	Full post-office addresses.	Proportion owned.
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

Revised Form 1000 B,

Ownership Certificate—*Individual*—EXEMPTION CLAIMED,

shall be in the following form, and shall be printed on yellow paper:

Form 1000 B. Revised.

TREASURY DEPARTMENT, INTERNAL REVENUE—INCOME TAX.

OWNERSHIP CERTIFICATE—INDIVIDUAL—EXEMPTION CLAIMED.

(To be furnished with coupons or interest orders showing ownership of bonds and amount of exemption claimed under paragraph C of the Federal income-tax law.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)

....., 191.. Amount of coupon or registered interest, $....
(Date of maturity of interest.)

Total exemption allowed under paragraph C, $.....

Amount of exemption now claimed, $.....

I do solemnly declare that I am a citizen or resident of the United States and am the owner of the above-described bonds from which were detached the accompanying coupons, or from which I am entitled to the above-described registered interest, and that all of the information as given in this certificate is true and correct.

Date, ..., 191..

.....
(Usual business signature of owner of bonds.)

.....
(Full post-office address of owner.)

*By....., *Agent.*
(Usual business signature of agent authorized to sign for owner.)

.....
(Full post-office address of agent.)

*NOTE 1.—To be filled in only when duly authorized agent executes this certificate for owner, in which case the name and address of owner must be given, and collecting agent first receiving certificate must stamp across face "Satisfied as to identity and responsibility of agent" (giving name and address of collecting agent).

NOTE 2.—If securities are owned jointly by several persons one may sign, and the names, addresses, and proportion of ownership of each indorsed on the back hereof.

NOTE 3.—When numbers of bonds are required to be given, same are to be entered on back hereof.

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

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On the back of said certificate there shall be printed, for the use of joint owners of bonds, the following form, to wit:

JOINT OWNERS.

If securities described on other side are owned jointly, the names and addresses of owners and the proportion of ownership of each should be given.

Names.	Full post-office addresses.	Proportion owned.

Revised Form 1001,

Ownership Certificate—FIRMS AND ORGANIZATIONS,

shall be in the following form, and shall be printed on yellow paper:

Form 1001. Revised.

TREASURY DEPARTMENT.
INTERNAL REVENUE—INCOME TAX.

OWNERSHIP CERTIFICATE—FIRMS AND ORGANIZATIONS.

(Showing ownership of bonds, which is to be furnished by firms or organizations not subject to withholding of tax on interest at source.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)

....., 191.. Amount of coupon or registered interest, $....
(Date of maturity of interest.)

I do solemnly declare that the firm or organization named below, and of which I am a member or an officer, is the owner of the above-described bonds from which were detached the accompanying coupons, or upon which there is due the above-described registered interest, and that under the provisions of the Income Tax Law and Regulations said interest is exempt from having the tax withheld at the source, and that all the information given herein is true and correct.

Date, ..., 191.. .....
(Name of firm or organization.)

By .....
(Signature of person duly authorized to sign, and his official position.)

Address: .....
(Give full post-office address of firm or organization.)

NOTE.—When numbers of bonds are required to be given, same are to be entered on back hereof.

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Revised Form 1002,

CERTIFICATE FOR USE OF FIRST BANK OR COLLECTING AGENCY,

shall be in the following form, and shall be printed on green paper:

Form 1002. Revised.

TREASURY DEPARTMENT
INTERNAL REVENUE—INCOME TAX.

CERTIFICATE OF BANK OR COLLECTING AGENCY.

(To be presented with coupons or interest orders when not accompanied by certificate of owners.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)

....., 191.. Amount of coupon or registered interest, $....
(Date of maturity of interest.)

I (we) do solemnly declare that the bank or collecting agency named below has purchased or accepted for collection the accompanying coupons or interest orders from....., of.....
(Name of party from whom received.) (Full post-office address of said party.)

and that no certificate of ownership accompanied said coupons or interest orders, and that I (we) have no knowledge as to who is the owner or owners of the bonds (except as noted on back hereof)* upon which the above-described interest is due, and the bank or collecting agency hereby acknowledges responsibility of withholding therefrom the normal income tax of 1 per cent, in accordance with the regulations of the Treasury Department.

Date, ..., 191.. .....
(Bank or collecting agency.)

By .....; .....
(Signature of officer authorized to sign and official position.)

.....
(Full address of bank or withholding agency.)

*NOTE.—If the ownership of bonds is known to person signing this certificate, he must give the name and address of the owner on the back hereof.

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

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Revised Form 1004,

Ownership Certificate—NONRESIDENT ALIENS,

shall be in the following form, and shall be printed on yellow paper:

Form 1004. Revised.

TREASURY DEPARTMENT, INTERNAL REVENUE—INCOME TAX.

OWNERSHIP CERTIFICATE—NONRESIDENT ALIENS.

(To be furnished with coupons detached from bonds or other obligations owned by citizens or subjects, firms, corporations, or organizations of foreign countries and who are not residents of the United States.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)

....., 191.. Amount of coupon or registered interest, $....
(Date of maturity of interest.)

I do solemnly declare that the owner of the bonds from which were detached the accompanying coupons, or upon which there matured the aforesaid registered interest, is a nonresident alien in respect to the United States, and is exempt from the income tax imposed on such income by the United States Government under the law enacted October 3, 1913; that no citizen of the United States wherever residing, or foreigner residing in the United States or in any of its possessions, has any interest in said bonds; and that all of the information as given in this certificate is true and correct.

Date, ..., 191..

.....
(Signature of owner or, if organization, name.)

.....
(If organization, signature of official authorized to sign, and official position.)

.....
(Full post-office address of owner.)

NOTE.—When numbers of bonds are required to be given, same are to be entered on back hereof.

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

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Revised Form 1007,

CERTIFICATE CLAIMING EXEMPTION,

allowed citizens and resident aliens under paragraph C, shall be in the following form, and shall be printed on yellow paper:

Form 1007. Revised.

TREASURY DEPARTMENT,
INTERNAL REVENUE—INCOME TAX.

EXEMPTION CERTIFICATE ———.

(For claiming exemption at the source as provided in paragraph C of the Federal income tax law of October 3, 1913.)

To.....
(Give name of withholding agent.)

.....
(Full post-office address.)

I hereby serve you with notice that I am single—married, with my (wife—husband) living with me, and that I now claim the benefit of the exemption of $....., as allowed in paragraph C of the Federal income tax law of October 3, 1913 (my total exemption under said paragraph being $.....).

Date, ..., 191.. Signed: .....

Address: .....
(Full post-office address.)

NOTE.—Claim for exemption on Form 1007 can be filed with the debtor or withholding agent at any time, not less than 30 days prior to March first next succeeding the year for which exemption is claimed.

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

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Revised Form 1015,

Ownership Certificate—FIDUCIARY, THE SOURCE,

shall be in the following form, and shall be printed on yellow paper:

Form 1015. Revised.

TREASURY DEPARTMENT, INTERNAL REVENUE—INCOME TAX.

OWNERSHIP CERTIFICATE—FIDUCIARY, THE SOURCE.

(To be filed with debtor or withholding agents by fiduciaries claiming exemption from withholding at the source.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)

....., 191.. Amount of coupon or registered interest, $....
(Date of maturity of interest.)

I (we) do solemnly declare that the estate or trust named below is the owner of the above-described bonds from which were detached the accompanying coupons, or upon which there is due the above-described registered interest, and acting for the estate or trust in the capacity herein stated, I (we) hereby declare that I (we) do now claim exemption from having the normal tax of 1 per cent withheld from said income by the debtor at the source. I (we) hereby assume the duty and responsibility, imposed upon withholding agents under the law, of withholding and paying the income tax due, for which I (we) may be liable.

....., ...
(Name of fiduciary.) (Capacity in which acting.)

Date, ..., 191.. For.....
(Name of estate or trust.)

.....
(Full post-office address.)

NOTE.—When numbers of bonds are required to be given, same are to be entered on the back hereof.

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

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Revised Form 1019,

Certificate of Ownership—FIDUCIARY, NOT SOURCE,

shall be in the following form, and shall be printed on white paper:

Form 1019. Revised.

TREASURY DEPARTMENT, INTERNAL REVENUE—INCOME TAX.

OWNERSHIP CERTIFICATE.—FIDUCIARY, NOT SOURCE.

(To be filed with debtor or withholding agents by fiduciaries when not claiming any exemption, as an alternative to the filing of Form No. 1015 in which exemption is claimed.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)

....., 191.. Amount of coupon or registered interest, $....
(Date of maturity of interest.)

I (we) do solemnly declare that the estate or trust named below is the owner of the above-described bonds from which were detached the accompanying coupons, or upon which there is due the above-described registered interest, and acting for the estate or trust in the capacity herein stated, I (we) hereby declare that I (we) do not now claim exemption from having the normal tax of 1 per cent withheld from said income by the debtor at the source.

....., ...
(Name of fiduciary.) (Capacity in which acting.)

Date, ..., 191.. For .....
(Name of estate or trust.)

.....
(Full post-office address.)

NOTE.—When numbers of bonds are required to be given, same are to be entered on the back hereof.

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

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Form 1058,

Substitute Certificate—EXEMPTION CLAIMED,

shall be in the following form, and shall be printed on yellow paper:

Form 1058.

TREASURY DEPARTMENT,
INTERNAL REVENUE—INCOME TAX.

SUBSTITUTE CERTIFICATE—EXEMPTION CLAIMED.

(To be attached to interest coupons when the collecting agent's certificate is substituted for the cerificate of owner in which exemption was claimed.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)

....., 191.. Amount of coupon or registered interest, $....
(Date of maturity of interest.)

Total exemption allowed under paragraph C, $.....

Amount of exemption claimed, $....

I (we) do solemnly declare that the owner of the above-described bonds from which were detached the accompanying interest coupons has filed with me (us) a certificate of ownership, Form No. ....., duly executed and filled in according to Treasury Regulations, which certificate has been indorsed by me (us) as required by Treasury Regulations, and that under the provisions of the income tax law and regulations, said interest is exempt from the withholding and payment of the income tax at the source, or that exemption was claimed as stated herein; and I (we) do hereby promise and pledge myself (ourselves) to forward the said certificate to the Commissioner of Internal Revenue, at Washington, D. C., not later than the 20th day of next month, in accordance with Treasury Regulations.

Date, ..., 191.. .....
(Name of bank or collecting agency.)

By .....
(Signature of person authorized to sign, and his official position.)

No. ....
(Full post-office address of collecting agency.)

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Form 1059,

Substitute Certificate—EXEMPTION NOT CLAIMED,

shall be in the following form, and shall be printed on white paper:

Form 1059.

TREASURY DEPARTMENT, INTERNAL REVENUE—INCOME TAX.

SUBSTITUTE CERTIFICATE—EXEMPTION NOT CLAIMED.

(To be attached to interest coupons when collecting agent's certificate is substituted for certificate of owner in which exemption was not claimed.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)

....., 191.. Amount of coupon or registered interest, $....
(Date of maturity of interest.)

I (we) do solemnly declare that the owner of the above-described bonds from which were detached the accompanying coupons has filed with me (us) a certificate of ownership, Form No. ....., duly executed and filled in according to Treasury Regulations, which certificate has been indorsed by me (us) as required by Treasury Regulations, and which certificate did not claim any exemption from having the normal tax of 1 per cent withheld by the debtor at the source; and I (we) do hereby promise and pledge myself (ourselves) to forward the said certificate to the Commissioner of Internal Revenue at Washington, D. C., not later than the 20th day of next month, in accordance with Treasury Regulations.

Date, ..., 191..

.....
(Name of bank or collecting agency.)

By .....
(Signature of person authorized to sign, and his official position.)

No. .....

.....
(Full post-office address of collecting agency.)

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All certificates shall be, in size, 8 by 3½ inches, and shall be printed to read from left to right along the 8-inch dimension.

All certificates *claiming exemption* shall be printed on yellow paper; all certificates *not claiming exemption* shall be printed on white paper; and certificate Form 1002, for use by the first bank or collecting agency, shall be printed on green paper.

All paper upon which certificates shall be printed shall correspond in weight and texture to white writing paper 21 by 32, about 40 pounds to the ream of 500 sheets.

Certificates heretofore authorized, when properly executed, will be accepted up to October 1, 1914.

The revised certificates hereby provided will be printed by the Government and furnished without cost for the use of bond owners.

All existing regulations which may be in conflict with the prescriptions of this regulation are hereby superseded.

Individuals or organizations desiring to print their own certificates may do so, but certificates so printed must conform in size and be printed in similar type, upon the same color, shade, and weight of paper as used by the Government.[1]

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1977.)

Income tax.

Ownership certificate to be executed by foreign banks, bankers, etc., claiming exemption of nonresident alien from income tax on interest on bonds owned by said nonresident alien, viz: Citizens or subjects, firms, corporations, or organizations of foreign countries who are not residents of the United States.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., May 2, 1914.

For the purpose of complying with income-tax regulations requiring the filing of certificates of ownership of bonds when presenting coupons or interest orders for collection of interest on bonds of domestic corporations of the United States owned by nonresident aliens as to the United States, a certificate in the form following is

[1] Sample certificates showing size of type and color of paper can be secured from collectors of internal revenue in their several districts or from the Commissioner of Internal Revenue at Washington, D. C.

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provided, which may be executed by responsible banks or bankers in foreign countries for and in behalf of nonresident alien owners of bonds of United States corporations:

Form 1060.

OWNERSHIP CERTIFICATE—NONRESIDENT ALIEN—TO BE EXECUTED BY BANKS, BANKERS, ETC.

(For use by foreign banks or bankers, to accompany coupons detached from bonds or other obligations owned by citizens or subjects, firms, corporations, or organizations of foreign countries, and who are not residents of the United States.)

TREASURY DEPARTMENT, INTERNAL REVENUE—INCOME TAX.

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)

....., 191.. Amount of coupon or registered interest, $.....
(Date of maturity of interest.)

I (we) do solemnly declare that the owners of the bonds from which were detached the accompanying coupons or upon which there matured the aforesaid registered interest are nonresident aliens as to the United States and are exempt from the income tax imposed on such income by the United States Government under the law enacted October 3, 1913; that no citizen of the United States, wherever residing, or foreigner residing in the United States or in any of its possessions, has any interest in said bonds; and that all of the information as given in this certificate is true and correct. I (we) hereby agree that if at any time within three years from the date of this certificate it shall appear that the income or any part thereof represented or covered by this certificate was or is subject to the normal tax imposed by the United States, upon presentation of proof of that fact to me (us) by, from, or through the Commissioner of Internal Revenue, Washington, D. C., I (we) will pay and remit to the United States Government the amount of tax claimed to be due; and I (we) hereby further agree that whenever in the judgment of the Commissioner of Internal Revenue it shall be necessary in or to the administration of the income-tax law, I (we) will, upon request of the said Commissioner of Internal Revenue, disclose and furnish to him the names and addresses of the owners and the amounts of the bonds aforesaid.

Date, ..., 191.. .....
(Name of bank or banker.)

By .....
(Signature of official authorized to sign.)

.....
(Official position.)

.....
(Full post-office address of bank or banker.)

NOTE.—When numbers of bonds are required to be given, same are to be entered on back hereof.

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

When foreign banks or bankers shall use the foregoing certificate, they may include in one certificate all the coupons from bonds of the same class and same issue, and may include in one certificate all the interest orders or checks for interest on registered bonds of the same class and same issue.

The above certificate shall be in size 8 by 3½ inches, and shall be printed to read from left to right along the 8-inch dimension.

The certificate shall be printed on yellow paper and such paper shall correspond in weight and texture to white writing paper 21 by 32, about 40 pounds to the ream of 500 sheets.

The revised certificate hereby authorized will be printed by the Government and furnished without cost.

Individuals or organizations desiring to furnish their own certificates may do so, but certificates so printed must conform in size to that prescribed above and be printed in similar type upon the same color, shade, and weight of paper as used by the Government.

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Sample certificates showing size of type and color of paper can be secured from collectors of internal revenue in their several districts, or from the Commissioner of Internal Revenue, Washington, D. C.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1978.)

Denatured alcohol—Bromine absorption number.

In testing wood alcohol by the bromine absorption number, the rate of flow through the burette shall not exceed 5 c. c. per minute.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 30, 1914.

SIR: This office is in receipt of various communications from you concerning the bromine absorption test as used in the analysis of wood alcohol submitted for denaturing purposes. Complaint was made to you, as well as to this office, that the rate of flow through the burette which you were using was not fast enough.

After a careful investigation in the laboratory of this office it has been decided that your contention was correct, and that the rate of flow as used by your laboratory is satisfactory.

For the guidance of all authorized denatured-alcohol chemists, it is hereby directed that in testing wood alcohol by the bromine absorption number *the rate of flow* through the burette shall not exceed *5 c. c.* per *minute.*

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 1979.)

Claims—Decision of Court of Claims.

1. CLAIMS FOR REFUND.

Claims for refund of taxes illegally collected must be presented to the Commissioner of Internal Revenue within two years after the cause of claim accrues.

2. CLAIMS SUED FOR IN COURT OF CLAIMS.

Suits for the recovery of internal-revenue taxes alleged to have been illegally collected not commenced within two years after the cause of action accrues can not be prosecuted in the Court of Claims, notwithstanding the general statute of limitations of actions in that court is six years.

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3. RULE OF INTERPRETATION.

Statutes in pari materia are to be construed together, and repeals by implication are not favored if the acts can reasonably stand together.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., May 9, 1914.

The appended decision of the Court of Claims of the United States in the case of Fort Pitt Gas Co. *v.* United States is published for the information of internal-revenue officers and others concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

COURT OF CLAIMS OF THE UNITED STATES. No. 30191.

[Decided Jan. 12, 1914.]

Fort Pitt Gas Co. v. *United States.*

CAMPBELL, Chief Justice, delivered the opinion of the court:

Suit is brought to recover certain taxes assessed and paid under the provisions of section 27 of the war-revenue act of 1898. The claim is that by reason of the character of claimant's business the taxes were wrongfully or unlawfully collected and should be repaid.

There was assessed against claimant upon the August list, 1900, for the months of April and May of that year, by the proper internal-revenue collector upon its gross receipts in excess of $250,000 the sum of $50.93, which, together with the added penalty and interest of $18.85, or a total of $69.78, was paid on August 1, 1903, under protest to the collector. There were also assessments against claimant by the assessment lists during 1901 and up to and including June, 1902, and payments thereof made in the aggregate sum of $2,299.04. The times of the several payments by claimant, other than the payment first mentioned above, are not shown by the evidence.

The claimant having paid on August 1, 1903, said sum of $69.78 (tax, penalty, and interest), filed its application with the Commissioner of Internal Revenue, praying that the same be refunded. This application was filed August 28, 1903, and was disallowed by the commissioner on November 10, 1905. Something more than a year thereafter (November 20, 1906) claimant filed a second application with the commissioner, wherein is set forth a number of payments of taxes paid by claimant, amounting, as therein stated, to $1,813.81, and its former application, which had been disallowed as aforesaid, is referred to and made "a part of this application."

The claimant thereupon "makes application for the reopening of its said claims" and prays that said sum of $1,813.81 be repaid to it.

The commissioner's action upon this second application was on May 22, 1907, when he allowed the claim to the extent of $69.78, being the amount named in the first application, and denied the balance upon the ground that the application was not made within the time prescribed by section 3228, Revised Statutes.

The war-revenue act of 1898 in large measure, and particularly section 27 thereof, was repealed by the act of April 12, 1902, effective July 1, 1902 (32 Stat. L., 99), more than one year before the alleged date of the payment of the tax penalty and interest upon which the first application to the commissioner was predicated in August, 1903. The method used to collect this tax penalty and interest, $69.78, nearly three years after its assessment for the months of April and May, 1900, and more than one year after the repeal of the law under which it was assessed is not apparent from the record,

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but the commissioner found that no application for a refund of the other payments was made in time and it appearing that no penalty or interest was collected upon the assessments made subsequent to that for April and May, 1900, it is to be inferred that all of the payments of the tax (except the $69.78) were made when they respectively became due, which was during 1901 and 1902. But the case is not altered in our view if all the payments were made in August, 1903. Sections 3220 et seq., Revised Statutes, provide a method whereby taxes wrongfully exacted or collected may be refunded or suit brought therefor. Section 3228 provides that claims for refundment of "any internal-revenue tax alleged to have been erroneously or illegally assessed or collected without authority or of any sum alleged to have been excessive or in any manner wrongfully collected must be presented to the Commissioner of Internal Revenue within two years next after the cause of action accrues."

Section 3227 provides that no suit shall be maintained "in any court" for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or in any manner wrongfully collected, "unless the same is brought within two years next after the cause of action accrued."

Section 3226 provides for an appeal to be made to the Commissioner of Internal Revenue, "according to the provisions of law in that regard and the regulations of the Secretary of the Treasury established in pursuance thereof, and a decision of the commissioner has been had therein: *Provided*, That if such decision is delayed more than six months from the date of such appeal, then the said suit may be brought, without first having a decision of the commissioner, at any time within the period limited" by section 3227.

As to the nature of the appeal contemplated by section 3226, we refer in this connection to the Chesebrough Case. (192 U. S., 253, 263).

The general statute of limitations of actions in this court (sec. 156, Judicial Code) prescribes that a claim is barred unless the petition be filed "within six years after the claim first accrues." This statute, fixing a rule applicable to cases generally, is not necessarily inconsistent with the sections of the Revised Statutes above mentioned, which fix the limitation for a particular class of cases "in any court." Statutes in pari materia are to be construed together, and repeals by implication are not favored if the acts can reasonably stand together. The Distilled Spirits (11 Wall., 365); State *v.* Stoll (17 Wall., 425, 436); Rodgers' Case (36 C. Cls., 266; 185 U. S., 83); Petri *v.* Creelman Lumber Co. (199 U. S., 487, 497). "The general statute is read as silently excluding from its operation the cases which have been provided for by the special one." (Endlich Inter. Stat., sec. 223.) We deem it unnecessary to decide the question as to whether a suit can be brought in this court under the statute applicable to this court or should be brought in the class of cases under consideration against the collector, because, under the view we take, the claimant's cause of action is barred, even if the court have jurisdiction of such a suit brought in time. We hold that the limitation fixed by section 3227, Revised Statutes, is applicable and not the six-year limitation of section 156, Judicial Code. Christie-Street Com. Co. *v.* United States (129 Fed., 506; 136 Fed., 326); Schwarzchild-Sulzberger & Co. *v.* Rucker, collector (143 Fed., 656).

The cases of James *v.* Hicks (110 U. S., 272) and Stewart *v.* Barnes (153 U. S., 456), to which we have been referred by counsel, are not opposed to the view we have taken. In the first of these cases the cause of action arose prior to the act of June 6, 1872 (now sec. 3227, Rev. Stat.), and came within the saving clause of the proviso in section 3227. Similarly, the second of said cases involved taxes paid in 1869 and was within the proviso of said section 3227. If the claimant could wait for a decision by the commissioner upon his application, it yet appears that the first application, filed August 28, 1903, was rejected by the commissioner November 10, 1905, and no action was brought in this court within two years thereafter. A second application was made to the commissioner in November, 1906, to reopen the case,

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and this second application was in part granted on April 29, 1907, but this application or the granting of it did not have the effect of suspending the running of the limitation plainly fixed by the statute. The commissioner had rendered his decision, and whether the cause of action accrued at the end of six months from August 28, 1903, as we hold it did, or at the date of the decision by the commissioner, in November, 1905, the action here is not in time.

It follows that the petition should be dismissed, and it is so ordered.

(T. D. 1980.)

Gauging instruments.

Evidence of breakage or unfitness for use to be furnished when application is made for replacement.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., May 14, 1914.

To collectors of internal revenue:

Hereafter, when application is made to you by gauging officers for additional gauging instruments to replace those alleged to have been broken, you will require the applicant to return the metal backs of the thermometers and the labels from the bulbs of the hydrometer stems to your office. Where hydrometer boxes or cups require replacement because of their unfit condition, the box or cup or some portion thereof should be returned to you.

In cases where it is impossible to submit ocular proof of the breakage or unfit condition of the instrument or apparatus to be replaced, the applicant should be required to file with the collector a written statement, setting forth the circumstances in detail and giving the reason why the usual evidence can not be produced.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 1981.)

Denatured alcohol.

Modified special denaturant used in manufacture of smoking and chewing tobacco to apply to both alcohol and rum.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., May 14, 1914.

SIR: This office is in receipt of your letter of the 8th instant asking if modified formula No. 4 (T. D. 1975) can be used in connection with the denaturation of alcohol.

In reply you are advised that as T. D. 1232 authorized the second formula prescribed for the denaturation of rum to be used for the denaturation of alcohol, a similar extension is hereby made with respect to modified formula No. 4 authorized under T. D. 1975.

Respectfully, W. H. OSBORN,
Commissioner of Internal Revenue.

COLLECTOR THIRD DISTRICT, *Boston, Mass.*

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(T. D. 1982.)

Aqueous extract of opium.

Aqueous extract of opium held to be "opium suitable for smoking purposes" within the meaning of the act of January 17, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., May 21, 1914.

SIR: The Secretary of the Treasury has forwarded to this office copies of your letter of May 15 and inclosures relative to the manufacture of aqueous extract of opium by ———, and in reply you are advised that in view of the fact that it has been shown that aqueous extract of opium, while it may have some medicinal uses, may for all practical medicinal purposes be supplanted by a powdered extract of opium, and that such aqueous extract of opium is used to a considerable extent by opium smokers in its original condition or with the addition of a small amount of moisture, this office is of the opinion that aqueous extract of opium is opium suitable for smoking purposes within the meaning of the act of January 17, 1914, taxing such opium and regulating its manufacture, and manufacturers putting out aqueous extract of opium will hereafter be required to comply with all the provisions of law relating to the manufacture of opium suitable for smoking purposes, including payment of tax thereon.

Respectfully,
W. H. OSBORN,
Commissioner of Internal Revenue.

SPECIAL AGENT ACTING IN CHARGE, *New York.*

(T. D. 1983.)

Income tax—Decision of court.

1. CONSTITUTIONALITY.
The income tax law is not unconstitutional.

2. INJUNCTION.
As the taxes, if collected illegally, may be recovered back, there is no occasion for interference of a court of equity by injunction.

3. DISMISSAL OF BILL.
The motion for injunction was overruled and the bill of complaint dismissed with costs.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washinton, D. C., May 28, 1914.

The appended decision of the Supreme Court of the District of Columbia in the case of John F. Dodge and Horace E. Dodge *v.* William H. Osborn, Commissioner of Internal Revenue, is published for the information of internal-revenue officers and others concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

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SUPREME COURT OF THE DISTRICT OF COLUMBIA HOLDING EQUITY COURT. No. 32515.

John F. Dodge and Horace E. Dodge, plaintiffs, v. William H. Osborn, Commissioner of Internal Revenue, defendant.

[Decided May 14, 1914.]

STAFFORD, *Judge:* * * * In my best opinion that act is not unconstitutional in either respect in which it is challenged by the plaintiffs. I think the contentions are satisfactorily met and answered in the brief filed in behalf of the Government, so that I will not take the trouble to write an opinion in the case or go into it fully at this time.

* * * * * * *

The plaintiffs are amply able to pay the tax, and I think the act provides a proper and reasonable method for the recovery of any taxes illegally exacted under the act. The defendant is proceeding in accordance with the explicit directions of the statute, and there is a provision that if the taxes are collected illegally they may be recovered back; and inasmuch as no irreparable damage will be inflicted upon the plaintiffs by the payment of such taxes, even if illegal, and subsequent recovery of them is provided for by the statute, I think there is no occasion for the interference of a court of equity by injunction. I make this statement because the same question may arise in some future case with reference to the scope and effect of section 3224 of the Revised Statutes. So that this bill will be dismissed with costs.

NOTE.—Counsel for the plaintiffs noted an appeal to the Court of Appeals of the District of Columbia.

(T. D. 1984.)

Distillers of brandy—Certain exemptions.

Exempting distillers of brandy from plums, pawpaws, persimmons, or wine or fruit pomace residuum, where artificial sweetening has been used in the manufacture of wine, from those provisions of law from which distillers of brandy from certain other fruits have been exempted.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., May 19, 1914.

To collectors of internal revenue and others:

Section 3255, Revised Statutes, as amended, and as further amended by the act of March 2, 1911, reads as follows:

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may exempt distillers of brandy made exclusively from apples, peaches, grapes, pears, pineapples, oranges, apricots, berries, plums, pawpaws, persimmons, prunes, figs, or cherries from any provision of this title relating to the manufacture of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so: *Provided*, That where, in the manufacture of wine, artificial sweetening has been used, the wine or the fruit pomace residuum may be used in the distillation of brandy, and such use shall not prevent the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, from exempting such distiller from any provision of this title relating to the manufacture of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so..

1. By virtue of the authority contained in said section, as amended, the Commissioner of Internal Revenue, with the approval of the

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Secretary of the Treasury, does hereby exempt distillers of brandy made from plums, pawpaws, persimmons, or from wine or the fruit pomace residuum, where, in the manufacture of wine, artificial sweetening has been used, from the same provisions of law from which distillers of brandy from the other fruits mentioned in said section have heretofore been exempted, as set forth in Regulations No. 7, revised September 17, 1908.

2. Wine or the fruit pomace residuum containing artificial sweetening can be used as distilling material under the foregoing exemptions only where the artificial sweetening has been used in the process of the manufacture of wine.

3. The addition of artificial sweetening to fruit pomace residuum after the manufacture of wine is complete is not permissible, nor is the distillation of such a mash authorized under the foregoing exemptions. Such a mash can only be made and distilled in a duly authorized grain or molasses distillery.

4. Brandy produced from artificially sweetened wine or from the fruit pomace residuum can not under any circumstances be used in the fortification of pure sweet wine under the provisions of the act of October 1, 1890, as amended. Brandy produced from artificially sweetened wine will be marked by the gauger "Brandy," and when produced from artificially sweetened pomace residuum he will prefix to the word "Brandy" the word "Pomace."

5. Until revised, the existing regulations relating to fruit distillers will be in force; and the exemptions from the above-mentioned provisions of law will be subject to such further changes and future regulations as may be deemed necessary to insure the collection of the tax on all brandy produced.

6. Distillers who have qualified for the current bonded year before proceeding to distill either plums, pawpaws, persimmons, or wine or the fruit pomace residuum where artificial sweetening has been used, must give a new notice on Form 27½ and a new bond on Form 30½, which shall provide for the use of the same in addition to those printed in the forms.

7. A new survey must also be made in each of such cases in which the spirit producing capacities of the different conditions of plums, pawpaws, and persimmons will be ascertained and reported, and for that purpose plums and persimmons may, for the present, be classed with grapes and pawpaws with apples or peaches. In such new surveys a special capacity will be reported for "Wine artificially sweetened" and also for "Pomace residuum artificially sweetened." Such artificially sweetened wine or pomace residuum should be rated higher in fixing the yield than ordinary unsweetened wine, pomace, or cheese.

8. Until new blanks are provided, in all notices and bonds hereafter given and in all reports of surveys made upon the blank forms now

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in use, the names of the new fruits and a particular description of the artificially sweetened materials must be inserted in their proper order with the names printed in said instruments. Similar changes will also be made in the distillers' records and returns.

9. The system of closely supervising the operations of fruit distilleries, which has heretofore obtained, will be continued during the approaching fruit distilling season, and collectors will exercise increased vigilance in order to secure a strict observance of the law and regulations relating to fruit distilleries and payment of tax on all brandy produced.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
CHARLES S. HAMLIN,
Acting Secretary of the Treasury.

(T. D. 1985.)

Income tax.

Extension to October 31, 1914, of waiver of regulations providing for the filling in on certificates used in connection with the income tax of the numbers of bonds of corporations, etc.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., May 28, 1914.

Notice is hereby given that T. D. 1955, issued May 10, 1914, waiving until June 30, 1914, the requirement that the numbers of bonds or other like obligations of corporations, etc., from which interest coupons are detached or upon which registered interest is to be paid, shall be filled in on the certificates to be used in connection with the income tax is hereby extended to October 31, 1914.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
CHARLES S. HAMLIN,
Acting Secretary of the Treasury.

(T. D. 1986.)

Income tax.

Execution of income tax substitute certificates 1058 and 1059 by banks or collecting agents.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., May 29, 1914.

To collectors of internal revenue:

You are advised that as a convenience to banks and collecting agents who desire to substitute their certificates, Forms 1058 and 1059,

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for the owner's certificate accompanying the coupons deposited for collection, it is hereby provided that the name of the bank or collecting agent may be printed or stamped, and that a facsimile of the signature of the person authorized to sign the substitute certificate for the bank or collecting agent may also be printed or stamped on the certificate: *Provided*, that in all cases the bank shall first file with the Commissioner of Internal Revenue a certificate of its authorization in substantially the form following:

_____
(City.) (Date.)

The COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C.

The undersigned hereby authorizes the use of the facsimile signature shown below upon all substitute income tax certificates issued in its name until this authorization is revoked by written notice to you.

_____
(Name of bank or collecting agent.)

By_____
(Signature of person authorized to sign.)

_____ _____
(Facsimile signature of person authorized to sign.) (Official position.)

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
CHARLES S. HAMLIN,
Acting Secretary of the Treasury.

(T. D. 1987.)

Income tax—Fiduciaries.

Forms 1015 and 1019, revised, may be adapted so that but one certificate will be required to be filed with coupons from the same issue of bonds the property of different estates or trusts.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., May 29, 1914.

To collectors of internal revenue:

Under Income Tax Regulations No. 33, articles 39 and 70, fiduciaries are required to file certificates on Forms 1015 or 1019 (now 1015 and 1019, revised), according to the nature of the claim to be made by the fiduciary, for each issue of bonds and for each trust.

It is therefore provided that where fiduciaries have the custody and control of more than one estate or trust, and said estates or trusts have as assets bonds of corporations, etc., of the same issue, said fiduciaries may adapt certificates, Forms 1015 or 1019, revised, by changing the words "estate or trust" in lines 1, 2, and 3 of said forms to the plural, and writing on blank line provided for (the name of the estate or trust) the words, "As noted on the back hereof."

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In such cases the notation on the back of the certificate should show for each estate or trust—

(*a*) The name of the estate or trust.

(*b*) The amount of the bonds.

(*c*) The amount of the interest.

In all other respects the certificates should be filled out as indicated thereon.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:

CHARLES S. HAMLIN,
Acting Secretary of the Treasury.

(T. D. 1988.)

Income tax—Certificate of ownership of bonds—Nonresident alien.

Form 1060, provided to be executed by foreign banks or bankers, may be used by domestic banks or bankers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 2, 1914.

To collectors of internal revenue:

The provisions of T. D. 1977, permitting responsible banks or bankers of foreign countries to execute certificates of ownership (Form 1060) for nonresident alien owners of bonds of domestic corporations, are hereby extended to and for the use of responsible banks or bankers in the United States for and in behalf of nonresident alien owners of bonds of United States corporations.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:

CHARLES S. HAMLIN,
Acting Secretary of the Treasury.

(T. D. 1989.)

Income tax.

Designation of losses which are deductible from gross income within a taxable year.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 2, 1914.

To collectors of internal revenue:

Several letters have been received in which inquiry has been made as to whether losses resulting from the sale of real estate by individuals are properly deductible from gross income in the returns of annual net income of individuals for the income tax.

Under paragraph B of the income tax law it is provided that among the deductions to be allowed shall be "losses actually sustained during

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the year, incurred in trade or arising from fires, storms, or shipwreck, and not compensated for by insurance or otherwise."

Losses arising from fires, storms, or shipwreck and not compensated for by insurance or otherwise are easily ascertained and there would not appear to be any chance of an erroneous construction as to these. Losses actually sustained during the year incurred in trade are limited by the language of the act itself.

"In trade" is synonymous with *business*.

"Business" has been defined as—

That which occupies and engages the time, attention, and labor of any one for the purpose of livelihood, profit, or improvement; that which is his personal concern or interest; employment, regular occupation, but it is not necessary that it should be his sole occupation or employment.

The doing of a single act incidentally or of necessity not pertaining to the particular business of the person doing the same will not be considered engaging in or carrying on the business.

It is therefore held that no losses are deductible in a return of income save and only those losses permitted and provided for by the statute, viz, those actually sustained during the year—

Which are "incurred in trade,"

Or which arise from "fires, storms, or shipwreck and not compensated for by insurance or otherwise."

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:

CHARLES S. HAMLIN,
Acting Secretary of the Treasury.

(T. D. 1990.)

Income tax.

Use of certified checks and other forms of commercial exchange in payment of internal-revenue taxes.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 1, 1914.

SIR: Your letter of the 28th ultimo has been received, in which you quote a letter of the 27th idem, addressed to you by the president of the First National Bank of Abingdon, calling attention to the fact that you are receiving from taxpayers in payment of income tax certified checks from various points in your district. The bank requests you to require the income tax to be paid in New York, Washington, Baltimore, or Philadelphia funds which can be used in New York at par, for the reason that they are required to remit every day in New York funds.

You call attention to the instructions on Form 647, "Notice of assessment of special excise and income tax," which you state instruct taxpayers that they may remit by certified check and that

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most of them are doing so. You ask what steps shall be taken by you in case the bank declines to accept certified checks for deposit.

In reply to your request as to what action should be taken in case the bank declines to accept certified checks, your careful attention is invited to the regulations published as Department Circular No. 11, dated March 27, 1913, copy inclosed. You will note that you are required to accept in payment of all internal-revenue taxes certified checks drawn in your favor on national and State banks and trust companies located in the city of Abingdon, and in addition such "out of town" certified checks as you can cash without cost to the Government. In the event that the depositary will not accept for deposit "out of town" certified checks, you are not required by law or regulations to accept such checks in payment of internal-revenue taxes.

The law does not specifically authorize the acceptance of any form of exchange in payment of internal-revenue taxes other than currency and such certified checks as are specifically described in Department Circular No. 11, reference to which is made above. If, however, the collector elects to accept drafts or other mediums of exchange not specifically authorized by law, he does so at his own risk, but it may be said that, if the depositary bank will accept such forms of exchange indorsed by the collector without recourse and issue therefor regular certificates of deposit, the monetary responsibility would appear to be shifted from the collector to the depositary, inasmuch as the collector would be entitled to credit in his accounts by reason of the issuance of such certificates of deposit (see sec. 3211, Rev. Stat., and notation found on page 108 of Compilation of Internal Revenue Laws, 1911).

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

COLLECTOR OF INTERNAL REVENUE,
Sixth District, Abingdon, Va.

(T. D. 1991.)

Special excise tax on corporations—Decision of court.

1. TAXES DUE FROM STOCKHOLDERS.

Under the State law, where banks pay the State tax imposed on shareholders, but have a lien until reimbursed on the shares of stock and all dividends, the tax is not imposed on the banks.

2. TAXES NOT DEDUCTIBLE.

State taxes so paid can not be legally deducted from gross income in returns made by banks under the corporation tax act.—T. D. 1763 sustained.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 1, 1914.

The appended decision of the United States District Court, Eastern Division of the Eastern District of Missouri, in the case of the National

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Bank of Commerce, of St. Louis, *v.* E. B. Allen, collector of internal revenue, is published for the information of internal-revenue officers and others concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

UNITED STATES DISTRICT COURT, EASTERN DIVISION OF THE EASTERN DISTRICT OF MISSOURI. No. 4104.

National Bank of Commerce in St. Louis, plaintiff, v. E. B. Allen, United States collector of internal revenue for the first district of Missouri, defendant.

DYER, *Judge:* The question before the court and presently to be decided is raised by the plaintiff's motion for judgment on pleadings. The plaintiff filed its petition against the defendant to recover certain sums of money paid by it (under protest) to the defendant, who was and still is the collector of internal revenue for the first collection district of Missouri. The petition is in three counts. Under the first count judgment is asked in the sum of $1,932.31, under the second count for the sum of $1,870.43, and under the third count for the sum of $1,502.04. These several amounts are for taxes alleged by plaintiff to have been illegally assessed against it by the Commissioner of Internal Revenue for the years 1909, 1910, and 1911, and illegally and wrongfully demanded and collected of it by the defendant. The several counts in the petition are in all respects the same, except in the amount claimed and the year for which the assessment was made. It will therefore be unnecessary to refer at length to any more than the first count. That count, omitting the purely formal parts, is as follows:

Plaintiff further states that in the year 1910 and on or prior to the 1st day of March, 1910, in the time and in the manner provided by section 38 of the act of Congress approved August 5, 1909, relating to special excise tax on corporations, made due and proper return to the United States Commissioner of Internal Revenue of the entire gross and net income received by it from all sources during the year 1909, together with all other information required by said act of Congress; that in its said return the plaintiff, as authorized by said act of Congress, deducted from the gross amount of the income received by plaintiff during the year 1909 the sum of $193,230.98, which it had paid within and for the year 1909 for taxes imposed under the authority of the State of Missouri, and as required by the provisions of chapter 117, Article II, of the Revised Statutes of Missouri, 1909.

Thereafter said United States Commissioner of Internal Revenue, in pursuance of such return, duly and properly assessed against this plaintiff the sum of $9,848.57 as and for the special excise corporation tax against this plaintiff on account of its said net income for the year 1909, which said sum was in due time, to wit, on or prior to the 30th day of June, 1910, paid by this plaintiff to E. B. Allen, Esq., United States collector of internal revenue for the first district of Missouri, as aforesaid.

Plaintiff further states, however, that during the month of April, 1912, said United States Commissioner of Internal Revenue made a new, additional, and unwarranted assessment of a tax against this plaintiff in the sum of $1,932.31 as a special corporation excise tax on account of its (plaintiff's) said net income for the year 1909, and that thereafter this plaintiff received from said collector of internal revenue notice of such additional assessment, which said notice (Form 647, list month of April, 1912, p. 1) notified this plaintiff that said sum of $1,932.31 had been assessed against it by the United States Commissioner of Internal Revenue as a special corporation excise tax on account of its said net income for the said year 1909, and that the same had been transmitted to said collector of internal revenue for collection and was due and payable on or before the 30th day of June, 1912, and required and demanded that this plaintiff pay said collector of internal revenue said amount of said additional assessment, to wit, the sum of $1,932.31.

Plaintiff further says that said additional assessment was and is unwarranted and unlawful and contrary to the provisions of said act of Congress, and was made because said United States Commissioner of Internal Revenue and said collector illegally claimed that this plaintiff in making its return of its gross and net income received for

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the year 1909 had no right to deduct from the gross amount of its income for the year 1909 the sum of $193,230.98 which plaintiff had actually paid within the year 1909 as and for taxes imposed on plaintiff under the authority of the State of Missouri.

Whereas, in truth and in fact, said last-mentioned sum had been actually paid by this plaintiff within said year of 1909 for taxes imposed on this plaintiff under the authority of the laws of the State of Missouri, and as required by the provisions of chapter 117, Article II, of the Revised Statutes of Missouri, 1909, and was a sum which plaintiff was compelled by law to pay, and was not a sum which this plaintiff had any option to pay or refuse to pay, and was a sum which plaintiff was entitled under the provisions of said act of Congress to deduct from the gross amount of the income of plaintiff for the year 1909.

Plaintiff further says that it has never received nor recovered back from anyone said sum of $193,230.98, so paid by it as aforesaid for taxes in compliance with the laws of the State of Missouri, and said sum never constituted any part of the net income of this plaintiff for the year 1909.

The answer of the defendant is as follows:

Defendant further admits that prior to March 1, 1910, plaintiff made a return of its gross and net income received by it from all sources during the year 1909, as required by the act of August 5, 1909, which said return was correct except as hereinafter stated; that thereupon the Commissioner of Internal Revenue assessed against plaintiff the sum of $9,848.57, as and for the special excise corporation tax which plaintiff should pay on account of its net income for said year of 1909; that said tax was thereupon, as alleged in said petition, paid to defendant; that thereafter the Commissioner of Internal Revenue made a new and additional assessment of a tax against plaintiff in the sum of $1,932.31 as a special corporation excise tax on account of plaintiff's net income for said year 1909; that notice thereof was given and the payment thereof demanded, as alleged in plaintiff's petition; that thereafter plaintiff paid said additional assessment of $1,932.31 under protest; that at the time plaintiff paid said additional assessment plaintiff notified the United States Commissioner of Internal Revenue and said collector that plaintiff would take steps to recover the amount so paid by plaintiff under protest; that thereafter, on the 12th day of October, 1912, plaintiff did appeal in writing to the United States Commissioner of Internal Revenue, and did claim that said sum so paid under protest had been improperly paid; that the same had been paid under protest and did demand that said sum be refunded to plaintiff; that said claim and appeal was in writing and in due form as prescribed by the Secretary of the Treasury of the United States; that said Commissioner of Internal Revenue denied and rejected said appeal and refused the same, and that no part of said $1,932.31 has been repaid to plaintiff.

Defendant further answering states that after plaintiff had made its said return of its gross and net income for the year 1909, as required by the act of August 5, 1909, and after the Commissioner of Internal Revenue had made said assessment based upon the net income of plaintiff for the year 1909, as shown by said return, evidence was produced before the Commissioner of Internal Revenue which in his opinion justified the belief that said return of the plaintiff was incorrect, in this, that in making said return plaintiff had unlawfully and wrongfully deducted from its gross income the sum of $193,230.98, which said sum had been during the year 1909 paid out by plaintiff (and never received or recovered back by plaintiff) on account of taxes assessed against the share and shareholders of plaintiff's capital stock under the provisions of article 2, chapter 117, of the Revised Statutes of Missouri, 1909, no part of which said sum of $193,230.98 had been assessed against plaintiff. And defendant says that in truth and in fact plaintiff during the year 1909 was required to pay and did pay the sum of $193,230.98 on account of taxes imposed under the provisions of article 2 of chapter 117 of the Revised Statutes of Missouri, 1909, no part of which said sum has ever been repaid to it; and plaintiff's net income for the year 1909, as reported in its said return, was arrived at by deducting from its gross income the said sum of $193,230.98, so paid out by it. But defendant says that said taxes so paid out by plaintiff were not assessed against the plaintiff or the property of the plaintiff, but on the contrary were taxes assessed against the shares and shareholders of plaintiff's capital stock, and were assessed and collected under the provisions of article 2 of chapter 117 of the Revised Statutes of Missouri, 1909, and particularly under sections 11357, 11359, and 11360 of said statutes.

Thereupon the Commissioner of Internal Revenue duly amended plaintiff's return theretofore made and added to the net income of plaintiff on said return the said sum of $193,230.98, so wrongfully deducted by plaintiff, and thereupon assessed against plaintiff said additional tax of $1,932.31, the same being 1 per cent upon said additional net income amounting to $193,230.98, as aforesaid.

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It is upon these pleadings that the plaintiff asks judgment.

The real, substantial, and controlling question raised by the petition and answer is this: Had the plaintiff the right, in reporting its *net* income, to deduct from its *gross* income the taxes assessed against its shareholders and paid by it under the provisions of sections 11357 and 11359 of the Revised Statutes of Missouri, 1909?

These two sections are as follows:

Sec. 11357. Assessment of manufacturing and business companies and stock in other corporations.—The property of manufacturing companies and other corporations named in Article VII, chapter 33, and all other corporations, the taxation of which is not otherwise provided for by law, shall be assessed and taxed as such companies or corporations in their corporate names. Persons owning shares of stock in banks, or any joint stock institution or association doing a banking business, or any insurance company, whether of fire, marine, life, health, accident, or other insurance, incorporated under or by any law of the United States or of this State, shall not be required to deliver to the assessor a list thereof, but the president or other chief officer of such corporation, institution, or association, shall, under oath, deliver to the assessor a list of all shares of stock held therein, and the face value thereof, the value of all real estate, if any, represented by such shares of stock, together with all reserved funds, undivided profits, premiums or earnings, and all other values belonging to such corporation, company, institution, or association; and such shares, reserved funds, undivided profits, premiums or earnings, and all other values so listed to the assessor, shall be valued and assessed as other property at their true value in money, less the value of real estate, if any, represented by such shares of stock. Private bankers, brokers, money brokers, and exchange dealers shall make like returns, and be assessed and taxed thereon in like manner, as hereinbefore provided. Insurance companies, or any corporations or associations doing business on the mutual plan, without capital stock, shall make like returns of the net value of all assets or value belonging thereto, which net value shall be assessed and taxed in the manner hereinbefore provided; provided, however, that the license hereafter required to be paid by any such bankers, brokers, and dealers, in addition to such taxes, shall not exceed one hundred dollars per annum. It is hereby made the duty of the county clerk to include in his abstract of the assessor's books required to be sent to the State auditor, valuation of all property assessed under this section, under the head of "corporate companies," and in addition thereto he shall make out from the lists delivered to the assessor as above provided and send the same to the state auditor to be laid before the state board of equalization, on or before the 20th day of February in each year, an abstract of the assessment of all corporations or persons doing a banking or insurance business in his county, showing the name of each bank and insurance company, the number of the shares of stock and their face value, amount of reserve funds, undivided profits, premiums or earnings, and all other value, together with the assessed value thereof, also the value of real estate deducted as above provided, and the assessed value of such real estate as shown by the real estate book.

Sec. 11359. Such taxes, how paid and covered.—The taxes assessed on shares of stock embraced in such list shall be paid by the corporations, respectively, and they may recover from the owners of such shares the amount so paid by them, or deduct the same from the dividends accruing on such shares; and the amount so paid shall be a lien on such share, respectively, and shall be paid before a transfer thereof can be made.

Section 38 of the act of Congress, approved August 5, 1909, contains, among others, the following provisions:

SEC. 38. That every corporation * * * shall be subject to pay annually a special excise tax * * * upon the entire net income over and above $5,000 received by it from all sources during such year * * *.

Second. Such net income shall be ascertained by deducting from the gross amount of the income—

(1) All the ordinary and necessary expenses actually paid within the year out of income in the maintenance and operation of its business and properties.

(4) *All sums paid by it within the year for taxes imposed under the authority of the United States or any State.*

It is upon this latter provision, I take it, that the plaintiff chiefly relies.

Can it be successfully claimed that the tax imposed by the State upon the shareholders of a bank is in any wise a tax imposed upon the bank itself? True, the bank is required to pay, i. e., advance the amount of the tax, but it is given a lien upon

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the shares of stock and all dividends thereon, until it is fully reimbursed by the shareholder. The shareholder is not allowed to get a transfer of his holdings so as to cut the bank out of its lien.

The Supreme Court of Missouri in the case of State ex rel Brinkop (238 Mo., p. 298) convincingly says:

> Under our statute, stock in a bank, Federal or State, is assessed against the shareholder, but the tax is paid in the first instance by the bank, and the bank is reimbursed by the shareholder. That is merely a mode of convenience in collecting the tax, the effect is the same as if the shareholder paid it in the first instance.

The plaintiff had no right to deduct from its gross income the taxes assessed against its shareholders under the State statutes. By doing so it did not correctly state its net income and for that reason the Commissioner of Internal Revenue acted well within his rights and duties in making the assessments complained of in plaintiff's petition.

In reaching the conclusion above stated, the court is well supported by the decision of the United States District Court of Massachusetts in the case of Eliot National Bank *v.* Gill, recently decided.

The motion of plaintiff for judgment on the pleadings is denied.

NOTE.—An appeal has been taken.

(T. D. 1992.)

Income tax.

Bonds of foreign corporations payable, as to interest, wholly within the United States, or within or without the United States, at the option of the owner of the bonds, to be treated for income-tax purposes] as domestic bonds when accompanied by certificates of ownership properly executed.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 4, 1914.

To collectors of internal revenue:

Where foreign corporations have an issue of bonds, the interest upon which is payable wholly within the United States, or within or without the United States, at the option of the owner of the bonds, in all cases where said foreign corporations have fiscal agents within the United States and the said bonds are owned by citizens of the United States or aliens resident within the United States, the collection of interest on said bonds shall be considered to be and be treated as a domestic transaction upon the filing with said coupons certificates of ownership properly executed: *Provided*, That whenever coupons from foreign bonds not accompanied by certificates of ownership are presented for collection they shall be treated as foreign items, and the first bank or collecting agency receiving or accepting the same for collection or otherwise shall deduct, withhold, and pay the tax as provided by income-tax regulations for the collection of foreign income.

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Where a foreign corporation has an issue of *registered* bonds, the interest on which is payable through a fiscal agent in the United States, certificates of exemption may be filed with said fiscal agent in manner and form as prescribed by T. D. 1974 and payment by said fiscal agent shall be made in accordance with the provisions of T. D. 1974.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved.
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1993.)

Income tax.

Interest paid on indebtedness wholly secured by collateral the subject of sale in the ordinary business of a corporation may be deducted as a part of its expense of doing business.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 5, 1914.

To collectors of internal revenue:

This office is in receipt of numerous letters asking a ruling of this office as to the application of the following proviso quoted from subdivision (*b*) of subsection G of section 2, act of Congress approved October 3, 1913, to wit:

Provided, That in the case of indebtedness wholly secured by collateral the subject of sale in the ordinary business of such corporation, joint-stock company or association, the total interest secured and paid by such company, corporation, or association, within the year on any such indebtedness may be deducted as a part of its expense of doing business.

Many of these inquiries come from corporations engaged in buying and selling real estate, which real estate is pledged for the payment of indebtedness, and the question submitted is whether or not such real estate is "collateral" within the meaning of the proviso quoted and whether or not corporations paying interest on indebtedness wholly secured by such collateral may deduct from gross income as "an expense of doing business" the amount of interest paid on such indebtedness.

Relative to this you are informed that "collateral," as used in this proviso, comprehends and includes real estate or any form of physical or tangible property bound for the performance of certain covenants, the payment of certain obligations, and if such real estate or other physical or tangible property is the "subject of sale in the ordinary business of the corporation" owning the same, that

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is, if such corporation is, as a matter of its ordinary business, engaged in buying and selling, or dealing in such property, the interest actually paid within the year on indebtedness wholly secured by such collateral (a mortgage on such property) may be allowably deducted from gross income under item 4 (*a*) of the return form as an expense of doing business, without regard to the limit of deductible interest as set out in subdivision "Third," paragraph (*b*), subsection G of the Federal income tax law hereinbefore cited.

This construction of the proviso quoted is not intended to and does not authorize the deduction as "an expense of doing business" of any interest paid or indebetdness secured by property, real or personal, which is not the "subject of sale in the ordinary business of the corporation," but which is held by it for the purpose of, or as an instrument in carrying on, its ordinary business—such as the rights of way and other property of public utility companies, permanent office buildings and property of like character held or occupied for their own particular use or purpose in the furtherance of the objects of the corporation, but which property is not the subject of sale in their ordinary business, and which is simply occupied or used as an instrument or means of, or essential to, the carrying on of the ordinary business for the transaction of which they are organized. The fact that such property may be subject to sale under extraordinary or peculiar conditions does not qualify, but rather disqualifies, it as "collateral" such as is contemplated by this provision of the act cited.

The only corporations, joint-stock companies, or associations which will be allowed under this proviso as herein interpreted to deduct as "an expense of doing business" interest paid on indebtedness wholly secured by mortgage on real estate, or other physical and tangible property, are those corporations, joint-stock companies, or associations which are organized and operated for the exclusive purpose of buying, selling, and dealing in the particular kind of property upon which the mortgage is given, and the particular property pledged for the debt upon which the interest is paid must be the "subject of sale in the ordinary business of the corporation."

Any corporation whose indebtedness is secured by a trust, mortgage, or by any form of indenture which covers and includes in the lien any property which is not the subject of sale in the ordinary business of such corporation, will be and is excluded from the benefit of this proviso, as hereinbefore construed, and its interest deduction will be limited to the amount authorized in subdivision "third" above referred to—that is, the interest actually paid within the year at the contract rate on an amount of bonded or other indebtedness at no time within the year in excess of a sum ascertained by adding to the paid-up capital stock outstanding at the close of the

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year one-half of the total amount of the interest-bearing indebtedness also then outstanding.

Corporations which under this ruling are entitled to deduct as "an expense of doing business" the total amount of interest paid within the year on "indebtedness wholly secured by collateral the subject of sale in the ordinary business of such corporations," are required to state separately in their returns the amount of indebtedness upon which such interest is paid, segregating it from the indebtedness not so secured and upon which the interest paid is taken credit for or deducted under item 6 (*a*) of the return form. The interest-bearing indebtedness stated under item 2 of the return form as one of the bases for determining the amount of interest which may be allowably deducted under item 6 (*a*) must not include any "indebtedness wholly secured by collateral the subject of sale in the ordinary business of the corporation." Failure to segregate the two forms of indebtedness will render the interest deduction under item 6 (*a*) subject to suspension and disallowance.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO, *Secretary of the Treasury.*

(T. D. 1994.)

Revised list of alcoholic medicinal preparations for the sale of which special tax is required.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 6, 1914.

To collectors of internal revenue, revenue agents, and others:

The accompanying list of alcoholic medicinal preparations which have been examined by this office and held to be insufficiently medicated to render them unfit for use as a beverage is published for the information of all concerned.

Special tax will be required for the sale of any of the preparations herein named, even though such sales are for medicinal use. The liabilities of dealers for sales *for medicinal use* of any of the preparations marked with an asterisk (*) will, however, be held to date from and after August 1, 1914.

The names of most of the preparations heretofore given on the various lists which have been published will be found included in this list, the only exceptions being those the manufacturers of which have revised their formulas to meet the requirements of this office or which are no longer on the market.

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Special tax should not, therefore, be required for the sale for medicinal use of any alleged medicinal compound not on this list until this office has been communicated with and specific instructions received.

The preceding paragraph does not, however, apply to the class of compounds usually described by the term "cocktail bitters," which are suitable for and usually used as beverages.

It having been found in various instances that there are several preparations of the same name on the market, the names of the manufacturers of the preparations examined by this office are here given, and it should be understood that only the preparations as compounded by the manufacturer whose name is given is embraced in this list.

Special tax will be required for the manufacture and sale of beef, wine, and iron, unless it contains at least the percentages of beef and iron given in the formula on page 1821 of the nineteenth edition of the United States Dispensatory or is otherwise sufficiently medicated to be unsuitable for use as a beverage. Special tax will also be required for the sale of the compound ordinarily sold under the name of rock, rye, and glycerin.

Collectors and revenue agents should continue to secure and forward to this office samples of preparations which they have reason to believe are or may be used as a beverage.

List of alcoholic medicinal preparations.

Name.	Manufacturer.
Ale and Beef	Ale & Beef Co., Dayton, Ohio.
Allen's Restorative Tonic	Faxon & Gallagher Drug Co., Kansas City, Mo.
Alps Bitters	Peter Rostenkowski, Chicago, Ill.
American Alimentary Elixir	American Drug Store, 1115 Canal Street, New Orleans, La.
American Elixir	Beggs Manufacturing Co., Chicago, Ill.
American Stomach Bitters	American Drug Store, New Orleans, La.
Amer Picon	G. Picon (imported).
Angostura Aromatic Tincture Bitters	E. R. Behlers, St. Louis, Mo.
Apahinte	The Cordial Panna Co., Cleveland, Ohio.
Arbaugh's Newport Bitters	Daniel Stewart Co., Indianapolis, Ind.
Aroma Bitters	V. Gautier, 287 Hudson Street, New York.
Aromatic Bitters	Hanigan Bros., Denver, Colo.
Aroma Stomach Bitters	J. S. Smith & Co., Burlington, Iowa.
Aromatic Bitters	C. N. Prior, Middletown, N. Y.
Aromatic Stomach Bitters	The S. Holtzman Co., Johnstown, Pa.
Atwood's La Grippe Specific	Excelsior Medicine Co., Chicago, Ill.
Angauer Bitters	Angauer Bitters Co., Chicago, Ill.
Angauer Kidney-Aid	Do.
Augustiner Health and Stomach Bitters	A. M. August, Milwaukee, Wis.
Beef, Iron and Wine	Crown Supply Co., Pittsburgh, Pa.
Beef, Iron and Wine	The Jarmuth Co., Providence, R. I.
Beef, Iron and Wine	Lion Drug Co., Buffalo, N. Y.
Beef, Iron and Wine	Owl Drug Co., San Francisco, Cal.
*Beef, Wine and Iron	Chas. C. Miller, Chicago, Ill.

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List of alcoholic medicinal preparations—Continued.

Name.	Manufacturer.
Beef, Wine and Iron	Waudby, Son & Co., Pittsburgh, Pa.
Ben Hur Kidney and Liver Bitters	Fred. Reynolds, Detroit, Mich.
Berg's Hawkeye Bitters	Berg Medicine Co., Des Moines, Iowa.
Belvedere Stomach Bitters	Loewy Drug Co., Baltimore, Md.
Bismark Laxative Bitters	C. Lange & Co., Chicago, Ill.
Bismarck's Royal Nerve Tonic	R. A. Smith & Co., Pana, Ill.
Bitter Wine	Struzynski Bros., Chicago, Ill.
Bitter Wine	Aug. W. Burggraf, Johnstown, Pa.
Bitters	The Atlantic Vineyard & Wine Co., Philadelphia, Pa.
Blackberry	Karles Medicine Co., Aberdeen, S. Dak.
Blackberry Cordial	International Extract Co., Philadelphia, Pa.
Blackberry Cordial	Irondequoit Wine Co., Rochester, N. Y.
Blackberry Cordial	Strother Drug Co., Lynchburg, Va.
Blackberry and Ginger Cordial	Standard Chemical Co., Fort Smith, Ark.
*Black Hawk Bitters	Meyer Bros. Drug Co., St. Louis, Mo.
Black Tonic	Albert Niggemann, St. Louis, Mo.
Bonekamp Stomach Bitters	Geo. J. Fixmer, Springfield, Ill.
Bonekamp Bitters	J. S. Smith & Co., Burlington, Wis.
Botanic Bitters	F. E. Mayhew & Co., San Francisco, Cal.
*Bracer Bitters	Bracer Bitters Co., Chicago, Ill.
Bradenberger's Colocynthis	Standard Chemical Co., Fort Smith, Ark.
Brod's Celery Pepsin Bitters	Jno. Brod Chemical Co., Chicago, Ill.
Brown's Aromatic Cordial Bitters	Chas. Leich & Co., sole agents, Evansville, Ind.
Brown's Utryme Tonic	A. E. & E. V. Brown Co., Mobile, Ala.
Brown's Vin Nerva Tonic	Brown Chemical Co., Nashville, Tenn.
Buckeye Bitters	Geo. Albert, Milwaukee, Wis.
Carpathian Bitters	L. J. Sulak Land Co., West, Tex.
*Cascara Roots	American Bitter Wine Co., Chicago, Ill.
Celery Bitters and Angostura	Frank J. Maus, Kalamazoo, Mich.
Celery Extract	The P. S. Abbey Co., Kalamazoo, Mich.
Clarke's Rock Candy Cordial	Colburn, Birks & Co., Peoria, Ill.
Clayton & Russell's Stomach Bitters	Adams & Co., New York City.
Clifford's Cherry Cure	Standard Chemical Co., Fort Smith, Ark.
Clifford's Peruvian Elixir	Do.
Cinchona Bitters	Morris & Dickson, Shreveport, La.
Coca Wine	American Drug Store, 1115 Canal Street, New Orleans, La.
Cocktail Bitters	Milburn & Co., Baltimore, Md.
Colasaya	Zwart's Pharmacy Co., St. Louis, Mo.
Columbo Elixir	Columbo Elixir Co., Philadelphia, Pa.
Columbo Peptic Bitters	L. E. Jung & Co., New Orleans, La.
Columbo Tonic Bitters	Iler & Co., Omaha, Nebr.
Cooper's Nerve Tonic	Muller & Co., Baltimore, Md.
Cordial Panna	The Cordial Panna Co., Cleveland, Ohio.
Crescent Star Jamaica Ginger	Gulf Manufacturing Co., New Orleans, La.
Crescent Tonic Bitters	Parker Blake Co., New Orleans, La.
Cross Bitter Wine	Eugene Parisek Co., Chicago, Ill.
Damana Gentian Bitters	Milburn & Co., Baltimore, Md.
Dandelion Bitters	Beggs Manufacturing Co., Chicago, Ill.
Dandy Bracer	Dandy Bracer Co., Philadelphia, Pa.
De Witt's Stomach Bitters	E. C. De Witt & Co., Chicago, Ill.
Didier's Bitters	J. A. Didier, Binghamton, N. Y.
Dr. Bergelt's Magen Bitters	Imported.
Dr. Brown's Blackberry Cordial	Texas Drug Co., Dallas, Tex.

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List of alcoholic medicinal preparations—Continued.

Name.	Manufacturer.
Dr. Brown's Tonic Bitters	Brown Chemical Co., Nashville, Tenn.
Dr. Bouvier's Buchu Gin	Dr. Bouvier's Specialty Co., Louisville, Ky.
Dr. Fowler's Meat and Malt	Meat & Malt Co., Louisville, Ky.
Dr. Gray's Tonic Bitters	Central Botanical Co., Cherry Creek, N. Y.
Dr. Hoffman's Golden Bitters	F. Trandt, St. Louis, Mo.
Dr. Hopkins Union Stomach Bitters	F. S. Amidon, Hartford, Conn.
Dr. Hortenbach's Stomach Bitters	Dr. Hortenbach, Minneapolis, Minn.
Dr. Rattinger's Bitters	Rattinger's Medical Co., Sappington, Mo.
Dr. Sherman's Peruvian Tonic and Systematizer.	Des Moines Pharmacal Co., Des Moines, Iowa.
Dr. Sterki's Ohio Bitters	Dr. V. Sterki & Co., New Philadelphia, Ohio.
Dr. Worme's Gesundheit Bitters	J. D. Heimsoth, Chicago, Ill.
Dozier's Apple Bitters	Bitter Apple Bitters Co., Hattiesburg, Miss.
Drake's Plantation Bitters	P. H. Drake & Co., Brooklyn, N. Y.
Dubonnet Wine	Imported.
Dubonnet	Do.
Ducro's Alimentary Elixir	Do.
Duffy's Malt Whiskey	Duffy Malt Whiskey Co., Rochester, N. Y.
*Elderberry Tonic	M. P. Kappel & Co., Chicago, Ill.
Elixir of Bitter Wine	Pleasant Tonic Bitters Co., Chicago, Ill.
Elixir of Bitter Wine	V. Bokr, Chicago, Ill.
Elixir Calisaya	Reid, Yeomans & Cubit, New York City.
Eucalyptus Cordial	Zwarts Pharmacy Co., St. Louis, Mo.
*Euclid Laxative Kidney and Liver Bitters.	The Schuster Co., Cleveland, Ohio.
Eureka Stomach Bitters	Iowa Drug Co., Des Moines, Iowa.
*Excelsior Bitters	Des Moines Drug Co., Des Moines, Iowa.
E. Z. Laxative Bitters	Carmeliter Bitters Co., New York, N. Y.
*Fabiani's Marsala Chinato	Fabiani's Pharmacy, Philadelphia, Pa.
Famous Wiener Bitters	Foxman Bros., Rock Island, Ill.
Faxon's Beef, Iron and Wine	Faxon, Williams & Faxon, Buffalo, N. Y.
Fernet-Carlisi Fernet Bitters	C. Carlisi Co., New York City.
*Ferri Rheumatic Cure	Luis Ferri, Butte, Mont.
Ferro-China Bascal	Basilea & Calandra, New York City.
Ferro-China Berna	W. P. Bernagozzi, New York City.
Ferro-China Bissleri	(Felice Bissleri) Imported.
Ferro-China-Blotto	Vittorio Blotto, New York City.
Ferro-China Carlisi Tonic Bitters	C. Carlisi Co., New York City.
Ferro-China-Citro Bitters	G. Citro & Co., Hoboken, N. J.
Ferro-China-Columbia	Columbia Distilling Co., Albany, N. Y.
*Ferro-China-Derna	G. Matalone, Chicago, Ill.
Ferro-China di Carlo	Lange Bros., New York City.
Ferro-China Ideal	Marrone & Lofar, Utica, N. Y.
Ferro-China-Salus	Italo-American Liquor Mfg. Co., New York.
Ferro-China Tito Manlio	Gennaro T. Manlio, Philadelphia, Pa.
Ferro-China-Trionfo	Basilea & Calandra, New York City.
Ferro-China Universale	Imported.
Ferro-China Vitanova	Steinhardt Bros. & Co., New York City.
Ferro-Quina Bitters	D. P. Rossi, San Francisco, Cal.
Finaflavora	The P. S. Abbey Co., Kalamazoo, Mich.
Fine Old Bitter Wine	Struzynski Bros., Chicago, Ill.
F. Miller & Co.'s Stomach Bitters	
Folger's Aromatic Bitters	M. D. Folger & Sons, Grand Rapids, Mich.
Fort Henry Ginger Compound	Reed, Robb & Breiding, Wheeling, W. Va.

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List of alcoholic medicinal preparations—Continued.

Name.	Manufacturer.
Gastrophan	Edward Rimsa, Chicago, Ill.
Gentian Bitters	Evans Smith Drug Co., Kansas City, Kans.
Genuine Bohemian Malted Bitter Wine Tonic.	Edward Rimsa, Chicago, Ill.
Germania Herb, Root and Fruit Tonic Bitters.	Dr. F. G. Nordman, Chicago, Ill.
German Stomach Bitters	Geo. Kuevers, Granite City, Ill.
German Stomach Bitters	Wm. W. Torge, Waukesha, Wis.
Ginger Tonic	Loewy Drug Co., Baltimore, Md.
Ginseng Cordial	American Ginseng Medical Co., Syracuse, N. Y.
Glycerin Tonic (Elixir Pepsin)	W. P. Underhill, Concord, N. H.
Graham's Brand Orange Bitters	Chas. Jacquin, New York City.
Green's Chill Tonic	M. V. Green, Son & Co., Selma, N. C.
Greiner's Blackberry Cordial	Greiner-Kelly Drug Co., Dallas, Tex.
Gross Bros. Blood and Liver Tonic	Gross Bros., Illinois.
Harrison's Quinine Tonic	I. X. L. Chemical Co., Chicago, Sinois, Ill.
Health Bitters	H. Bitzegeio, Chicago, Ill.
Health Bitters	Jos. G. Sporrer & Co., Toledo, Ohio.
Herb Bitters	Otto F. Lenzt, Petersburg, Ill.
Herbs Bitters	Herb Medicine Co., Reading, Pa.
Herbton	Hooper Medical Co., Hillsboro, Tex.
Heublein's Calisaya Bitters	G. F. Heublein & Bro., New York City.
Hop Bitters	Hop Bitters Mfg. Co., Rochester, N. Y.
Horke Vino Bitter Wine	Michael Bosak, Scranton, Pa.
Indian Stomach Bitters	Dr. D. Winegardner, Hanna, Okla.
I. X. L. Bitters	I. X. L. Chemical Co., Chicago, Ill.
Jack Pot Laxative Bitter Tonic	J. B. Schener Co., Chicago, Ill.
Jack's Indian Tonic	W. L. B. Jack, Portsmouth, Ohio.
Jaffe's Intrinsic Tonic	Jaffe Wine Co., Sacramento, Cal.
Jerome's Dandelion Stomach Bitters	Jerome Chemical Co., St. Louis, Mo.
Johnston's Cherry Elixir	Parker Blake Co., New Orleans, La.
Jones Stomach Bitters	Natchez Drug Co., Natchez, Miss.
June-Kola	Beggs Manufacturing Co., Chicago, Ill.
Juniper Kidney Cure	Juniper Kidney Cure Co., Fort Smith, Ark.
Kahn's Iron and Malt Whiskey	Kahn Brothers, New York City.
Karle's German Stomach Bitters	Karle German Bitters Co., Aberdeen, S. Dak.
Karlsbader Stomach Bitters	Jos. Landshut, Pittsburgh, Pa.
Katarno	Katarno Co., New York City.
K. K. K	Morris & Dickson Co., Shreveport, La.
*Kernel Stomach Bitters	Meyer Bros. Drug Co., St. Louis, Mo.
Koehler's Stomach Bitters	Koehler Bitters Co., New York City.
Kennedy's East India Bitters	Iler & Co., Omaha, Nebr.
Kidniwell	Brown Drug Co., Sioux Falls, S. Dak.
Ko-Ca-Ama	The Wm. Brooks Medicine Co., Russellville, Ark.
Kola and Celery Bitters	Milburn & Co., Baltimore, Md.
Kola Wine	Reid, Yeomans & Cubit, New York City.
Kreuzberger's Stomach Bitters	R. Kreuzberger, Logansport, Ind.
Krummel's Bonekamp Maag Bitters	Hry. Krummel, New York City.
Kudros	A. M. Hellmann & Co., St. Louis, Mo.

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List of alcoholic medicinal preparations—Continued.

Name.	Manufacturer.
Laxa Bark Tonic	Natchez Drug Co., Natchez, Miss.
Lee's Celebrated Stomach Bitters	Lee's Anti-Trust Medicine Co. Joplin, Mo.
Lekko Stomach Bitters	Struzynski Bros., Chicago, Ill.
Lemon Ginger	Ballard Snow Liniment Co., St. Louis, Mo.
Liverine	T. S. Mitchell Co., Providence, R. I.
Lutz Stomach Bitters	Chas. M. Lutz, Reading, Pa.
Lyons Stomach Bitters	Lyons Bitters Co. Chicago, Ill.
Magador Bitters	E. J. Rose & Co. Tacoma, Wash.
Magen Bitters	A. J. Waberksy, Chicago, Ill.
Magen Bitters	Mrs. Ingeborg Rosmer, Milwaukee, Wis.
Marks' Famous Stomach Bitters	R. Marks, Milwaukee, Wis.
McCorrison's Compound of Golden Seal	O. S. McCorrison, Union, Me.
Meta Multa	Bernheim Distilling Co., Louisville, Ky.
Mexican Stomach Bitters	Iler & Co., Omaha, Nebr.
Mikado Wine Tonic	Mikado Medicine Co., West Manchester, N. H.
Milburn's Kola & Celery Bitters	Milburn & Co., Baltimore, Md.
Miller Brand Bitters	Pure Food Cordial Co., New York City.
Miod Honey Wine	Struzynski Bros., Chicago, Ill.
*Native Herb Bitters	Chapman Drug Co., Knoxville, Tenn.
Nature's Remedy for Kidney Troubles and Blood Poisoning.	Dr. J. T. Sumpter, Bowling Green, Ky.
Neuropin	J. B. Scheuer Co., Chicago, Ill.
*New Tonic Bitters	Chas. C. Miller, Chicago, Ill.
Newton's Nutritive Elixir	Parker-Blake Co., New Orleans.
Novak's Stomach Elixir	Jno. Novak, Chicago, Ill.
Obermuller's Bitters	Jos. Bollenbeck, Madison, Wis.
O'Hare's Bitters	O'Hare Bitters Co., Pittsburgh, Pa.
Old Dr. Scroggin's Bitters	A. J. Adye, Adyeville, Ind.
Old Dr. Jaques Stomach Bitters	D. F. Giles & Co., Concord, N. H.
Orange Bitters	A. L. Joyce, Traverse City, Mich.
Our Ginger Brandy	Rex Bitters Co., Chicago, Ill.
Ozark Stomach Bitters	Lee's Anti-Trust Medicine Co., Joplin, Mo.
Pale Orange Bitters	Field, Son & Co., London, England.
Panama Bitters	Richardson Drug Co., Omaha, Nebr.
Panama Bitters	W. R. Reeve, Dorchester, Mass.
*Parker's Bitters	Louisiana Distillery Co. (Ltd.), New Orleans, La.
Pepsin Stomach Bitters	(E. L. Arp) Imported.
Peptonic Stomach Bitters	Ross, Flowers & Co., Chicago and New York.
Peruvian Bitters	Reed, Robb & Breiding, Wheeling, W. Va.
Peter Paul Stomach Bitters	Paul P. Fasbender, Detroit, Mich.
Peychaud's Bitter Wine Cordial	L. E. Jung & Co., New Orleans, La.
Pilsener Bitter Wine	Prenstat Bitters Co., West, Tex.
Pioneer Ginger Bitters	Dr. Koehler Medicine Co., Appleton, Wis.
Pond's Ginger Brandy	Pond's Bitters Co., Chicago, Ill.
Pond's Rock and Rye	Do.
*Purola Stomach Bitters	Blumauer-Frank Drug Co., Portland, Oreg.
Quinquina Dubonnet	Imported.
*Rex Elixir of Bitter Wine	Rex Bitters Co., Chicago, Ill.
Rex Ginger and Brandy Tonic	Do.

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List of alcoholic medicinal preparations—Continued.

Name.	Manufacturer.
Rex Ginger	Rex Bitters Co., Chicago, Ill.
*Rex Hoarhound Tonic	Do.
Rheinstrom's Stomach Bitters	Rheinstrom Bros., Cincinnati, Ohio.
*Richard's Celebrated Tonic Bitters	Minneapolis Drug Co., Minneapolis, Minn.
Riley's Kidney Cure	Jas. S. Riley, Hayne, N. C.
Rimsovo Malto-Sove Vino Chino	Ed. Rimsa, Chicago, Ill.
Rockandy Cough-Cure	
Rosolio	The Cordial Panna Co., Cleveland, Ohio.
Royal Pepsin Tonic	L. & A. Scharff, St. Louis, Mo.
Royal Pepsin Stomach Bitters	Do.
*S. B. C. Essence of Peppermint	Star Bitters Co., Sacramento, Cal.
*S. B. C. Extract of Jamaica Ginger	Do.
*S. B. C. Ginger and Brandy Compound	Do.
*S. B. C. Wild Cherry Tonic	Do.
*Salutaris Stomach Bitters	Salutaris Reenforce Tonic Medicine Co., Chicago, Ill.
*Sanitas Stomach Bitters	Sanitas Tonic Medicine Co., Chicago, Ill.
*Sanque Nerve Remedy	F. A. Terzia, Bastrop, La.
Sarasina Stomach Bitters	Wm. Blech, New York City.
St. Rafael Quinquina	Imported—Scheetz.
Scheetz Bitter Cordial	Percy R. Hentz, Pittsburgh, Pa.
Schier's Famous Bitters	Wendelin Schier, Alexandria, Ind.
Schmit's Celebrated Strengthening Bitters	Geo. W. Tepe, Evansville, Ind.
Schroeder's German Bitters	Milburn & Co., Baltimore, Md.
*Schuster's Bitters with Pepsin	The Schuster Co., Cleveland, Ohio.
Simon's Aromatic Stomach Bitters	Samuel B. Schein, St. Paul, Minn.
Sirena Tonic	Sirena Manufacturing Co., New York City.
Smart Weed	Francis Cropper Co., Chicago, Ill.
Smith's Bitters	Van Natta Drug Co., St. Joseph, Mo.
Smith's Vitalizing Bitters	Ben Smith, Scranton, Pa.
Steinkonig's Stomach Bitters	Adam Steinkonig, Cincinnati, Ohio.
Stomach Bitters	Imported by J. G. & J. Boker, New York City.
Stoughton Bitters	A. L. Joyce, Traverse City, Mich.
Strauss Exhilarator	Wm. H. Strauss, Reading, Pa.
Sure Thing Tonic	Furst Bros., Cincinnati, Ohio.
Tatra	B. Zeman, Chicago, Ill.
Tokay Quinine Iron Wine	Burger & Erdeky, Chicago, Ill.
Tolu Rock and Rye	
*Tolu Rock Candy Cordial	Meyer Bros. Drug Co, St. Louis, Mo.
True's Magnetic Cordial	Standard Chemical Co., Fort Smith, Ark.
U-Go	Fritz T. Schmidt & Sons, Davenport, Iowa.
Uncle Josh's Dyspepsia Cure	Dr. Worthington's Drug Co., Birmingham, Ala.
Underberg's Boonekamp Maag Bitters	Imported by Luyties Bros., New York City.
Vigo Bitters	F. C. Altmeier & Co., Chicago, Ill.
Vin de Michael	Imported.
*Vin Hepatica	The Miller-Addison Co., Dayton, Ohio.
Vin Mariani	Mariani & Co., New York City.
Vino-Kolafra	Mead, Johnson & Co., Jersey City, N. J.
Walker's Tonic	Dreyfuss, Veil & Co., Paducah, Ky.
*Walther's Peptonized Port	Walther-Robertson Drug Co., Pittsburgh, Pa.
Warner's Stomach Bitters	Warner, Friday & Co., Sioux City, Iowa.

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List of alcoholic medicinal preparations—Continued.

Name.	Manufacturer.
Webb's A No. 1 Tonic	Webb's Cooperative Co., Sacramento, Cal.
Westphalia Stomach Bitters	E. R. Behlers, St. Louis, Mo.
White Cross Bitters	V. Gautier, New York City.
White's Dyspepsia Remedy	W. L. White & Co., Louisville, Ky.
Will Do	The Will Do Co., Detroit, Mich.
Williams Kidney Relief	Parker, Blake & Co., New Orleans, La.
Wine of Chenstohow	Skarzynski & Co., Buffalo, N. Y.
Wine of Pomelo, with Beef and Iron	Irondequoit Wine Co., Rochester, N. Y.
*Wine Tonic	Wladyslaw Kryszewski, Jersey City, N. J.
*Wine Zdrowia	American Bitter Wine Co., Chicago, Ill.
Woodbury Brand Bitters	Steinhart Bros. & Co., New York City.
Zeman's Medicinal Bitter Wine	B. Zeman, Chicago, Ill.
Zien Stomach Bitters	Zien Bros., Milwaukee, Wis.
Zig-Zag	Walker's Tonic Co., Paducah, Ky.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 1995.)

Assessed taxes—Notice and demand, Form 17.

Notice of and demand for assessed taxes to be issued promptly to secure tax lien, penalty, and interest in case of nonpayment.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 12, 1914.

To collectors of internal revenue:

It appears that certain collectors hold that notice of assessment and demand, Form 17, is not necessary to create a liability to 5 per cent penalty and interest at 1 per cent per month in the case of income tax remaining unpaid after June 30 or other due date. This view as to the requirements of the law is clearly wrong and contrary to the instructions (art. 197, Regs., 33) issued on the subject.

The necessity of issuing Form 17 is twofold—first, to determine the date when 5 per cent penalty accrues and interest at 1 per cent per month begins to run, and, second, to complete the Government's lien on property belonging to the taxpayer.

In special excise and income-tax assessments a notice on Form 647 is required to be given in all cases where the required return is filed in due time. This, however, is simply a preliminary notice of assessment, to be followed, in case of nonpayment, by a formal notice and demand which the law clearly contemplates and which the courts hold to be necessary before the delinquent taxpayer becomes chargeable with penalty and interest.

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In all cases, therefore, where an assessed tax remains unpaid after it becomes due a notice on Form 17 should be at once issued, to be followed, when necessary, by Forms 21 and 69, in their order. The fact that a claim for abatement is pending or the tax is in litigation does not relieve the collector from issuing the notices, demands, etc., required by law.

A misunderstanding on the part of certain collectors as to these requirements has occasioned a considerable loss to the Government of penalty and interest, especially where claims for abatement were pending.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 1996.)

Income tax.

Cooperative dairies and like organizations do not fall within the classes of organizations enumerated in subsection G, section 2, act of October 3, 1913, as exempt, and are required to make returns of annual net income.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 15, 1914.

To collectors of internal revenue:

Attention is called to article 92 of Regulations No. 33, approved January 5, 1914, in which it is provided that cooperative dairies not issuing stock and allowing patrons dividends based on the percentage of butter fat in milk furnished are not liable to the requirements of section 2, act of October 3, 1913.

This article is amended to the effect that cooperative dairy associations, whether issuing capital stock or not, are required to make returns of annual net income pursuant to the requirements of this act.

The only corporations, joint-stock companies or associations, or insurance companies, exempt from the requirements of this act are those which fall within one or another of the classes specifically enumerated in the first proviso of subsection G of the act cited as exempt.

Cooperative dairies, no matter how organized, do not appear to fall within any of these exempted classes, and will, therefore, be required to make returns.

In the preparation of their returns, cooperative dairies may include in their deductions from gross income the amount actually paid to members and patrons for milk, but any amount retained at the end of the year over and above expenditures will be returned as net income, upon which the tax will be computed and assessed.

In so far as article 92, hereinbefore referred to, is in conflict with this ruling, it is hereby revoked, and collectors will require all organizations of this character to make returns of annual net income and

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in other respects comply with the requirements of the Federal income tax law as it applies to corporations, joint-stock companies or associations, and insurance companies.

In so far as applicable, this ruling also applies to mutual or cooperative telephone companies, farmers' insurance companies, and like organizations.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1997.)

Income tax.

Monthly list returns not to be made under oath.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 16, 1914.

To collectors of internal revenue:

The requirement that monthly list returns be made under oath (as provided by articles 35, 50, 53, and 59, Income Tax Regulations No. 33, when filed by withholding agents on or before the 20th of the month following that in which withholding occurred) is hereby waived.

In all cases the annual list return required of withholding agents (of which the monthly list returns will form a part as required by regulations) will be made, sworn to, and filed as now required by existing regulations, and the jurat for the annual list return will cover the entire return as thus made up.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1998.)

Income tax.

Exemption certificate provided for use of firms, organizations, and fiduciaries claiming exemption from withholding of tax at source on income other than interest on bonds.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 16, 1914.

To collectors of internal revenue:

The following certificate is hereby provided for use of firms, organizations, and fiduciaries for the purpose of establishing their identity

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and nonliability to withholding at the source of income (other than interest on bonds) payable to them. Said certificates shall be of the size and be printed on yellow paper of the weight and texture all as provided by T. D. 1976, the requirements of which are hereby made applicable to the certificate hereby provided.

(Form 1063.)

EXEMPTION CERTIFICATE—FIRMS, ORGANIZATIONS, OR FIDUCIARIES.

(For use of firms, organizations, or fiduciaries entitled to receive income *other than from interest on bonds* to establish their identity and nonliability to withholding at the source.)

.....

(Give name of debtor.)

.....

(Character of income, other than interest on bonds, as rent, dividends from foreign corporations, etc.)

I do solemnly declare that the firm, organization, or person named below is entitled to receive the above-described income and that under the provisions of the income tax law and regulations said income is exempt from having the tax withheld at the source, and that all the information given herein is true and correct.

Date, ..., 191..

.....

(Name of firm, organization, or fiduciary.)

By.....

(Signature of person duly authorized to sign for firm or organization and his official position or name of trust.)

Address.....

(Give full post-office address of firm or organization or fiduciary.)

The exemption certificate provided for the use of individuals is Form 1007, which will be used by individuals in all cases except for interest on bonds, for which forms 1000 and 1000B are provided.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 1999.)

Special excise tax on corporations—Leased railroads—Decision of court.

1. EXERCISING POWER OF EMINENT DOMAIN.

A railroad corporation which has leased its property for a term of years, but continued in possession of its corporate powers and exercised the power of eminent domain conferred by its charter by making application for the condemnation of land and filing locations therefor, is subject to the tax.

2. ISSUE OF BONDS BY LESSOR.

The lessor company, by issuing bonds to pay for extensions and improvements, engages in business and becomes subject to the tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 24, 1914.

The appended decision of the United States District Court for the District of Massachusetts in the case of New York Central & Hudson

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River Railroad Co. and Boston & Albany Railroad Co. *v.* Gill, collector, is published for the information of internal-revenue officers and others concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

DISTRICT COURT OF THE UNITED STATES, DISTRICT OF MASSACHUSETTS. No. 284.

New York Central & Hudson River Railroad Co. and the Boston & Albany Railroad Co. v. *James D. Gill, Collector.*

[June 10, 1914.]

BINGHAM, *Judge:* I am of the opinion that the Boston & Albany Railroad Co. during the year 1909 was a corporation engaged in business within the meaning of the corporation tax law of 1909 (sec. 38, 36 Stat., ch. 6) and was subject to the imposition of the tax therein authorized. In addition to maintaining its corporate organization, collecting rentals, paying rentals, transferring stock, maintaining an office force, investing funds, and paying dividends to its stockholders, it exercised the power of eminent domain conferred upon it by its charter by making application on four different occasions during the year for the condemnation of land with which to extend its lines in the State of Massachusetts, and filed locations therefor as required by law. And to pay for these extensions and improvements it authorized and issued bonds to the amount of $4,500,000, dated May 1, 1909, payable in 25 years, with interest at 4 per cent. McCoach *v.* Minehill Railway Co. (228 U. S., 295).

Judgment will be entered for the defendant, with costs.

(T. D. 2000.)

Special excise tax on corporations—Leased railroads—Decision of court.

1. ISSUE OF BONDS BY LESSOR.

A railroad corporation, which has leased its property for a term of years, but continued in possession of its corporate powers and issued bonds to pay for additions, improvements, and betterments of its property in accordance with the terms of the lease, engages in business and is liable for the tax.

2. REDUCTION OF CAPITAL STOCK.

The issuing or reduction of capital stock is the exercise of corporate power. Reducing capital stock is a matter between the stockholders and the corporation, and does not concern the public, and is not engaging in business so as to require payment of tax.

3. SUIT IN NAME OF LESSOR.

The bringing of a suit by lessee in name of lessor to establish right to cross tracks of another company is, under the circumstances stated, held not to constitute engaging in business.

4. EXCHANGE OF REAL ESTATE.

The joining by lessor in a deed for the sale of property and taking a conveyance constituted the transaction of business.

5. SINGLE ACT.

The doing of a single act of business, accompanied with a purpose to perform other corporate acts of the same kind, held to constitute the doing of business.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 25, 1914.

The appended decision of the United States District Court for the Southern District of Ohio, Western Division, in the cases of the Day-

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ton & Western Traction Co. *v.* Gilligan, collector, et al., is published for the information of internal-revenue officers and others concerned.

ROBT. WILLIAMS,
Acting Commissioner of Internal Revenue.

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION.
NOS. 2319–22 AND 2347.

Dayton & Western Traction Co. v. *Andrew C. Gilligan, Collector of Internal Revenue* (No. 2319); *Fort Wayne, Van Wert & Lima Traction Co.* v. *Same* (No. 2320); *Columbus, Newark & Zanesville Electric Railway Co.* v. *Same* (No. 2321); *Indiana, Columbus & Eastern Traction Co.* v. *Same* (No. 2322); *and Cincinnati Street Railway Co.* v. *Same* (No. 2347).

CHARGE TO THE JURY.

SATER, *District Judge:* Gentlemen of the jury, in case No. 2319 there is no evidence that the plaintiff transacted any business in either of the years 1910 or 1911, and it is therefore entitled to judgment on the first cause of action for $823.50, with interest from June 30, 1912, and on the second cause of action for $823.50, with interest thereon from October 23, 1913.

In case No. 2320 the plaintiff sues to recover for the corporation tax paid for the year 1911 and for the year 1912. The agreed statement of facts shows that in June, 1911, the plaintiff issued $70,000 reserve bonds for additions, improvements, and betterments to and of its property, in accordance with the terms of its lease. It does not appear that it did any business in the year 1912. It therefore follows that on the first cause of action the verdict should be for the defendant. On the second cause of action the verdict should be for the plaintiff in the sum of $450, with interest from October 23, 1913.

In case No. 2321 the plaintiff sues to recover for the corporation tax paid in the years 1911 and 1912, respectively. In 1911 it reduced its capital stock from $6,250,000 to $2,025,000. In 1912 it issued $250,000 bonds for additions, improvements, and betterments to and of its property. The issuing or reduction of capital stock is the exercise of corporate power. (Thompson on Corporations, 1st ed., sec. 1061.) The reduction or increase of capital stock is a transaction had between the corporation and its stockholders and not between the corporation and the general public or its lessee. A lessee may hold stock in the lessor, but its attitude as a stockholder is no different from that of any other stockholder. The stock of a corporation is not its tangible property. (Thompson on Corporations, sec. 1062; 10 Cyc., 365.) It is a chose in action, giving the right to participate in the election of corporate officers to be eligible to the officer or director, to receive dividends, and, after payment of the debts, to receive a proportional share of the corporate assets, if the corporation be wound up. (Thompson on Corporations, sec. 1070.) It is not shown that any creditors have been prejudiced by or were interested in the reduction or in any manner aided the business of either the lessor or the lessee. I infer from the McCoach case (228 U. S., 295) that if the assets of the corporation, through losses or otherwise, had depreciated so that the value of shares of outstanding stock had diminished, the charging off by the corporation of the loss would not constitute doing business. Whether, by arrangement between the stockholders and the corporation, the stockholders should retain the stock theretofore issued to them depreciated in value on account of such losses, or whether by common consent or acting under the statute they should surrender such stock and take in lieu thereof a less number of shares worth par in view of the changed conditions, would be a matter wholly for the determination of the stockholders and the corporation. What should be done in such

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a situation in the absence of prejudice to creditors is to be determined wholly by the stockholders and the company, and is, so to speak, so far a family arrangement as not to concern the public or to be an engaging in business. I therefore hold that the plaintiff did not engage in business in the year 1911 and that it should have judgment on the first cause of action for $339.88, with interest from June 30, 1912. As to the second cause of action, judgment is directed for the defendant.

In case No. 2322 it appears that in 1911 the plaintiff reduced its capital stock from $12,000,000 to $4,025,000. This was not an engaging in or doing of business within the terms of the law. By paragraph 1 of the lease it was covenanted that the lessee might use the name of the lessor in bringing, prosecuting, or defending any suits or proceedings at law or in equity necessary or proper in the opinion of the lessee for the protection, preservation, and full enjoyment by the lessee of the property, rights, and privileges leased, and from time to time might at its own expense apply for and operate in the lessor's name and right further rights to lay and maintain tracks and to erect and maintain poles, wires, etc., holding always the lessor harmless and indemnified against all loss, cost, damage, and expense whatsoever. Under paragraph 11 the lessee accepted all of the property leased and agreed that it would from time to time at its own expense, except as otherwise provided in paragraph 3, make all extensions, additions, alterations, improvements, renewals, and betterments necessary to make and maintain the property leased, and that all lands, structures, improvements, betterments, and renewals added to or made upon the demised premises, and all right, privileges, and franchises acquired by the lessee upon payment therefor, as provided in the lease, should become the property of the lessor. It also stipulated in paragraph 15 to perform all the obligations imposed upon the lessor by law or by the provisions of the lessor's grants from or contracts with any State, city, town, or county, in relation to the leased property, and not to do or suffer to be done or omitted any act or thing which should be a ground of forfeiture.

The lessor's road stopped at the city limits of Defiance, Ohio. To get into the city, for entrance into which it had a franchise but no constructed road, it was necessary to cross the Baltimore & Ohio Railroad Co.'s tracks. As the plaintiff and the last-named company were not able to agree, the lessee's attorney at Defiance was directed to bring a suit in the lessee's name under the Ohio statute against the Baltimore & Ohio Railroad Co. to establish its right to cross such company's tracks. An overhead or underground crossing was impracticable. The attorney, notwithstanding his instruction and in disregard of it, brought the suit in the name of the plaintiff, a fact which did not become known to plaintiff until long afterwards. The lessee is conducting the litigation, has control of it, and is required to bear all the expense of it. Although the plaintiff, after learning that the suit was instituted in its name, did not forbid its continuance, it does not appear to have taken any part in it, and I do not think, under the circumstances, that the plaintiff, by reason of such litigation, should be held to have engaged in business. The intention to do business was wanting.

In each of the years 1911 and 1912 the plaintiff joined in the exchange of certain real estate theretofore owned by it in Springfield, Ohio, for other real estate, conveying the former and taking a deed for the latter. Its action was governed by the third paragraph of its lease. In each of these years it engaged in the transaction of business. A verdict is therefore directed in favor of the defendant on both the first and the second causes of action. The reason for directing a verdict in favor of the defendant in such case is in pursuance of the views heretofore indicated in the charge delivered by this court on March 4, 1914. As there stated, the doing of a single act of business, accompanied with a purpose to perform other corporate acts of the same kind or other corporate business may very properly he held to constitute the doing of business. To the authorities then cited may be added International Text Book Co. *v.* Pigg (217 U. S., 91, 104, 105), and Deere *v.* Wyland (69 Kans., 285). Cook on Corporations (7th ed., sec. 696, p. 2351) states that a much broader meaning than

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ordinary is given to the words "doing business" under a tax statute, citing in support Flint *v.* Stone Tracy Co. (220 U. S., 107, 171), on which last page it is said:

"Business" is a very comprehensive term and embraces everything possible about which a person can be employed; * * * that which occupies the time, attention, and labor of men for the purpose of a livelihood or profit.

From the agreed statement of facts submitted in case No. 2347 and from the lease in evidence, it appears that paragraph 17 of the lease provides that whenever any of the real estate leased shall become unsuitable or unnecessary for the operation of the railroads, or any of them, mentioned in such lease, the lessee may sell and dispose of the same with the concurrence of the lessor as to the advisability of the sale and the price to be paid, to be evidenced by its uniting in the deed or other instrument of conveyance, and the proceeds of sale in every such case shall be applied to the purchase of other property to be mutually agreed upon by the lessor and lessee, the title to the same to be taken in the name of the lessor and the property purchased to be treated and used as a part of the leased property. A railway system as extensive as that of the plaintiff must necessarily have various pieces of real estate. There is in this provision a purpose to transact business from time to time and it brings the case, in my judgment, within the rule announced in the Pigg case, page 91. The location of stations, power plants, car barns, and other structures used in and about the operation of the road is frequently a matter not only of great convenience to the public, but of wise business policy and is of consequence in the transaction of a carrier's business. Under the paragraph mentioned the plaintiff may seldom be called upon to act. On the other hand, the shifting of residential or business districts, the growth of the city in sections unpopulated or sparsely populated, and the general convenience of the public and of the lessee may require the frequent sale of present properties and the purchase of others to a considerable extent. Considering that section, I am of the opinion that the plaintiff's joining in a deed for the sale of property in the year 1911 constituted the transaction of business and that for that reason the verdict as regards the tax levy for that year should be for the defendant. The view above expressed makes it unnecessary to determine whether the assent of the plaintiff to the contract between the Cincinnati Street Railway Co. and the Cincinnati & Hamilton Traction Co. involved the doing of business or not.

NOTE.—The railway companies intend to appeal these cases to the Circuit Court of Appeals.

(T. D. 2001.)

Income tax.

Corporations desiring to make returns of annual net income on the basis of a fiscal year must give notice in writing to the collector not less than 30 days prior to March 1, designating in such notice the last day of some month as the close of the fiscal year. Failure to give such notice at least 30 days prior to March 1, or to make return for the preceding calendar year on or before March 1, renders corporations liable to additional tax and penalty.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 22, 1914.

To collectors of internal revenue:

Your attention is called to the following provision quoted from paragraph O, subsection G of section 2, act of October 3, 1913:

The tax herein imposed shall be computed upon its entire net income accrued within each preceding calendar year ending December thirty-first; * * * *Provided*

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further, That any corporation, etc., subject to this tax may designate the last day of any month in the year as the day of the closing of its fiscal year and shall be entitled to have the tax payable by it computed upon the basis of the net income ascertained as herein provided for the year ending on the day so designated * * * and it shall give notice of the day it has thus designated as the closing of the fiscal year to the collector of the district in which its principal business office is located at any time not less than thirty days prior to the date upon which its annual return shall be filed.

Except as provided in the act, all corporations are required to make their returns of annual net income on the basis of the calendar year and to file such returns on or before the 1st day of March next following. March 1 is, therefore, the primary due date for the returns of all corporations. This due date can be postponed only in accordance with some legal or authorized action. Unless such action is taken within the prescribed time, or the returns filed on or before March 1, all corporations in existence at the preceding December 31 and failing to take such action, or so file their returns for the period ended December 31, will be held to be delinquent, and will be subject to 50 per cent additional tax and the penalty of the law.

The filing of returns at any date other than on or before March 1 and on a basis other than the calendar year can be authorized only in cases wherein corporations, not less than 30 days prior to March 1, give notice in writing to the collector of the district in which are located their principal places of business, designating in such notice the last day of some month as the close of their fiscal year. In this case the corporations will make their returns for the year so established, and will file their returns on or before the last day of the 60-day period next following the date designated as the close of the fiscal year.

For the purpose of the income tax law, a fiscal year, when designated, must be so designated that the return made on this basis will not comprehend a period greater than 12 consecutive months. If the required notice is delayed until it can not be given at least 30 days prior to March 1, or if the date designated as the close of the fiscal year comprehends a period greater than 12 months from the close of the period for which the last prior return was made, the returns must be made as of the calendar year and must be filed on or before March 1 until such time as a fiscal year for this purpose can be legally established.

If a corporation which shall have filed, on or before March 1, its return for the preceding period ended December 31, desires to establish, as a basis for making future returns, a fiscal year ended at some date prior to the next December 31, it may do so by filing, at least 30 days prior to the date when its returns, on a fiscal year basis, will be due, a notice with the collector designating the last day of some month as the close of its fiscal year. It will then, on or before the last

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day of the 60-day period next following the date so designated, file a return covering the period from January 1 to the date so designated in the same year, and thereafter its returns will be made for each 12-month period next following such date.

The above rulings will apply to corporations which began business within the year, as well as to those which were in existence and transacted business throughout the year.

Any ruling or Treasury decision heretofore issued and in conflict with this decision is hereby recalled and revoked.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
WM. G. MCADOO,
Secretary of the Treasury.

(T. D. 2002.)

Raisin wine.

T. D. 1949 applies to so-called raisin wine only where such product is made from a mash to which artificial sweetening is added.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 29, 1914.

To collectors of internal revenue and others concerned:

Where so-called raisin "wine" is made solely by the fermentation of dried grapes and water, without the addition of sugar or other artificial sweetening, it is held that the same is not made from a mash "fit for distillation" within the purview of section 3282, Revised Statutes, and T. D. 1949 of February 16, 1914.

Where, however, the addition of sugar or other artificial sweetening is necessary to perfect such product, the same may be added, but only after the fermentation of the product has been completed, as otherwise the addition of such fermentable material to a mash from which spirits may be obtained would render the mash fit for distillation within the contemplation of the statute.

The addition of sugar or spirits to such so-called wine, after fermentation, will, however, constitute rectification, and render the person so rectifying liable to the special tax imposed by section 3244, Revised Statutes.

Dealers in such so-called wines, including the manufacturers thereof, will also incur a special-tax liability as wholesale dealers or retail dealers, as the case may be, without reference to whether or not sugar or spirits have been added to such wine.

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The designation and branding of such product will be subject to such regulations as may be issued by the Department of Agriculture under the pure food and drugs act.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2003.)

Assessments.

Demand and notice, Form 17, to be served on July 1, unless payment of assessments is not made on or before June 30, or on the day following the termination of the 120-day period in the case of corporations which have designated fiscal years, held to apply in case of delinquents where their returns are filed prior to the date on which taxes are to be paid in the ordinary course.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 26, 1914.

COLLECTOR, SECOND DISTRICT, *New York, N. Y.*

SIR: This office is in receipt of your letter of the 16th instant, relative to the collection of the 5 per cent penalty against the ——— Co. for failure to pay the income tax and 50 per cent penalty within 10 days after the service of demand and notice on Form 17.

You were advised under date of June 12 that the 5 per cent penalty does not attach until 10 days after the service of the demand and notice and in no event until 10 days after June 30, and you call attention to Mim. 991, under date of January 22, 1914, in which collectors are directed to issue promptly Form 17 in cases of assessments for special excise and income taxes where the tax assessed is for overdue or additional taxes or where the required return is not filed within the time specified in the statute, as in such cases the right to 30 days' notice (Form 627) has been forfeited.

You are advised that this office is of the opinion that the cases referred to in the law where the assessments should be made by the Commissioner of Internal Revenue and paid immediately upon notification of the amount of such assessment relate to delinquent corporations who have failed to file returns until after the final day on which taxes should be paid in the regular course, viz, June 30. Under this construction, therefore, it will be seen that in cases of individuals and corporations whose delinquency was disclosed prior to July 1 or prior to the termination of the 120-day period following the day when the return was due to be filed, the demand and notice on Form 17 should not be served until July 1 or on the day following the termination of the 120-day period after the return was due and the 5 per cent penalty should not be demanded until the expiration of the 10-day period following the serving of such demand and notice. Where, however, such demand and notice has been served

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and payment of the 5 per cent penalty made before the termination of the 10-day period following June 30, the corporations by whom such payments have been made should be advised of their privilege to file claim for refund.

All rulings or decisions in conflict with the above are hereby overruled.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:

W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2004.)

Oleomargarine.

Supplement 1 to Regulations No. 9, revised July, 1907, concerning Government record to be kept by manufacturers of and wholesale dealers in oleomargarine.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 27, 1914.

To internal-revenue officers and others concerned:

Regulations No. 9, pages 46 and 47, and pages 56 and 57, concerning Government records to be kept by manufacturers of and wholesale dealers in oleomargarine are hereby amended as follows:

All transactions involving the withdrawal or sale of oleomargarine must be entered by the manufacturer or wholesale dealer on Government record, books 60 or 61, as the case may be (or Forms 216 or 217 if substituted for records 60 and 61), in the order and at the time they occur.

Where the proper entries in these records can not, for any good and sufficient reason, be made immediately following each transaction, the manufacturer or wholesale dealer, upon request from any internal-revenue officer, shall produce for his inspection such invoices, sales, or delivery slips, or other records covering any or all sales or deliveries of oleomargarine up to that time as may be required.

Failure on the part of a manufacturer or wholesale dealer to make necessary entries on the Government records at the time of transaction, or where such entries can not be made immediately, the refusal to produce other records requested by any internal-revenue officer is a violation of section 5, act of August 2, 1886, on the part of the manufacturer, and of section 6, act of May 9, 1902, on the part of a wholesale dealer, and the regulations thereunder, and should be reported by the officers making the investigation.

The regulations as amended herein are effective on and after July 15, 1914.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:

W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2005.)

Income tax.

Instructions and rules for determining what amount is to be allowed as a deduction for loss in a return of income.—Depreciation allowed by law does not include shrinkage in value of stocks, bonds, etc.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 8, 1914.

To collectors of internal revenue and revenue agents:

For the purpose of checking up returns and ascertaining the amount of taxable income of individuals and corporations you are given the following instructions and rules for use in determining the amount of deductible loss allowable to individuals and corporations under the fourth deduction (par. B, p. 5), Regulations No. 33, and second deduction, for domestic corporations (par. G, p. 14), and second deduction, for foreign corporations (par. G, p. 15), Regulations No. 33.

The loss considered here has in it no element of "depreciation," or "allowance for wear and tear," or "compensation from insurance or otherwise." It is to be such loss as is absolute and complete and which has been actually sustained.

Depreciation as an allowable deduction in ascertaining annual net income for the income tax is separately provided for and is not to be confused with loss. The depreciation provided to be taken as a deduction in a return of income is the value assigned to the deterioration of physical improvements or assets, such as are susceptible of having their value lessened through wear and tear, use or obsolescence.

The depreciation referred to in the income-tax law does not relate to evidence of a right or interest in property, and hence any shrinkage in the value of bonds, stocks, and like securities due to fluctuations in their market value is not deductible in a return of income as depreciation or loss.

Losses may be sustained by individuals or corporations on personal or real property. Only those losses are deductible which are sustained during the tax year "in trade"—that is, the business which engages the time, attention, and labor of anyone for the purpose of livelihood, profit, or improvement. Loss to be deductible must be an absolute loss, not a *speculative* or *fluctuating* valuation of continuing investment, but must be an actual loss, actually sustained and ascertained during the tax year for which the deduction is sought to be made; it must be incurred in trade and be determined and ascertained upon an actual, a completed, a closed transaction.

Losses sustained by individuals or corporations from the sale of or dealings in personal or real property growing out of ownership or use

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of or interest in such property will not be deductible at all unless they are an incident of, connected with, and grow out of the *business* of the individual or corporation sustaining the loss, and are ascertained, determined, and fixed as absolute in the above sense within the taxable year in which the deduction is sought to be made. When loss under this heading is ascertained to be deductible, the entire amount of the loss will be deductible except where the property in connection with which the loss occurred was acquired prior to March 1, 1913, in the case of individuals, and prior to January 1, 1909, in the case of corporations, and then and in such event the loss ascertained will be prorated over the whole time the property was held, and that part of the whole loss apportioned to the taxable period will be taken into account in annual returns of income. In prorating, fractional parts of years will not be considered.

Loss is the difference between selling price and cost where the selling price is less than cost.

Cost of property purchased prior to the incidence of the special excise tax (Jan. 1, 1909), or the incidence of the income tax (Mar. 1, 1913), will be the actual price paid for the property, including the expense incident to the procurement of the property in the first instance and its sale thereafter, together with carrying charges of interest, insurance, and taxes actually paid prior to the incidence of tax (special assessments, if any, "actually paid" as "local benefits" in connection with real estate); provided that where, up to the incidence of the tax, the expense of carrying property has exceeded the income from it, the difference between the expense of carrying and the income from the property shall be added to the purchase price and the sum thus ascertained shall be the cost of the property; and provided further, that in the case of property purchased prior to the incidence of the tax and sale thereof subsequent to the incidence of the tax there shall be excluded from consideration in ascertaining cost any items of income, expense, interest, and taxes previously taken into account in preparing a return of annual net income.

The cost of property acquired subsequent to the incidence of the tax will be the actual price paid for it, together with the expense incident to the procurement of the property in the first instance and its sale thereafter and the cost of improvement or development, if any.

All existing rulings and regulations in conflict herewith are hereby annulled and superseded.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2006.)

Income tax.

Definition of "foreign corporation" and "fiscal agent" as used in T. D. 1992, and further explanation of method of handling collection of income from bonds of such foreign corporations and foreign countries having fiscal agents in the United States.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 16, 1914.

To collectors of internal revenue:

Doubt having arisen as to the comprehensiveness of the term "foreign corporation," and the duties under the income-tax law of "fiscal agents," as provided in T. D. 1992, you are advised that "foreign corporations" as used in said decision was intended to include municipal and private corporations holding charters under laws of countries foreign to the United States, and "fiscal agents" refers to financial agents in the ordinary sense, upon whom the law casts the same duties with reference to withholding and paying the tax as are imposed upon withholding and paying agents of domestic corporations by appointment.

Where a foreign government has a fiscal agent in the United States for the purpose of paying the interest on its obligations, such fiscal agent will be charged with the duty of withholding and paying the tax on such interest payments, except to the extent of exemption claimed.

Where such foreign countries or corporations have an issue of bonds payable wholly within the United States or within or without the United States, at the option of the owner of the bonds, and where the coupons from such bonds are presented for payment to the fiscal agent in the United States of such foreign countries or corporations, or for collection to a bank or collecting agency whether licensed or not, with ownership certificate attached, then and in all such cases said coupons shall be treated as domestic items and the aforesaid fiscal agents will be charged with the duties and responsibilities of withholding and paying agents, and will make return on Form 1012, as provided by income tax regulations.

Where, however, such coupons are not presented with such ownership certificates attached, they shall be received only by a licensed bank or collecting agency, and when so received shall be considered to be and be treated as foreign items, in accordance with the regulations for the collection of foreign income.

This ruling is made in explanation and amendment of T. D. 1992 and other applicable regulations.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2007.)

Substitution.

Modification of T. D. 1872 of August 26, 1913.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 21, 1914.

To collectors of internal revenue, revenue agents, and others concerned:

The continued practice of substitution in double-stamp packages, notwithstanding the provisions of T. D. 1872, renders it necessary to modify said decision in order to secure a full compliance with, and a proper enforcement of, the law in that behalf.

Notice is therefore hereby given that not only will that decision be strictly adhered to as to seizures made hereafter, but that this office will also recommend criminal prosecution in every case where there is any evidence pointing to the guilty party.

Compromises, even when an amount is offered fully equal to what the spirits will bring at forfeiture sale, will not be accepted, as such a course is evidently not sufficient to deter unscrupulous dealers and entirely prevent this continued violation of law.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2008.)

Equalizing losses of bonded spirits.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 24, 1914.

To collectors of internal revenue and others concerned:

The attention of this office has been recently called to the illegal practice prevailing at many distilleries of concealing excessive losses of bonded spirits by "equalizing" or by refilling packages, thereby enabling the distillers to evade the tax on the spirits so lost.

Section 3257, Revised Statutes, provides:

> Whenever any person engaged in carrying on the business of a distiller defrauds or attempts to defraud the United States of the tax on the spirits distilled by him, or any part thereof, he shall forfeit the distillery and distilling apparatus used by him, and all distilled spirits found in the distillery and on the distillery premises, and shall forfeit not less than five hundred dollars nor more than five thousand dollars and be imprisoned not less than six months nor more than three years.

Notice is hereby given that hereafter in every case where equalizing or refilling packages of bonded spirits is discovered the property subject to forfeiture under the above quoted provision of law will be

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at once seized and that criminal proceedings will be at once instituted against the distiller so offending.

Collectors will see that all distillers in their respective districts are furnished with a copy of this circular.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. McADOO,
Secretary of the Treasury.

(T. D. 2009.)

Stamp tax on marine insurance policies under the war-revenue act—Decision of court.

1. POLICIES OF MARINE INSURANCE.
Insurance policies as documents are not exports.

2. STAMP TAX ON POLICIES OF MARINE INSURANCE.
The stamp tax on policies of marine insurance on exported products was not unconstitutional as a tax on exports. The case distinguished from tax on export bills of lading, Fairbanks *v.* United States (181 U. S., 283; T. D. 339), and on manifests, United States *v.* New York and Cuba Mail Steamship Co. (220 U. S., 488).

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 27, 1914.

The appended decision of the United States District Court for the Southern District of New York, in the case of the Thames & Mersey Marine Insurance Co. *v.* United States, is published for the information of internal-revenue officers and others concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK, JUNE 17, 1914.

The Thames & Mersey Marine Insurance Co. (Ltd.) v. *United States of America*

STATEMENT.

This case comes up on a demurrer to a petition under the Tucker Act to recover the sum of $5,500, alleged to have been illegally exacted from the petitioner for the payment of stamp taxes on policies of marine insurance underwritten by it. The tax was levied under the war-revenue act of 1898, which provided that after July 1 of that year there should be levied in respect of the documents thereinafter mentioned taxes as set down in the several schedules. Schedule A provided:

"Insurance (marine, inland, fire): Each policy of insurance or other instrument, by whatever name the same shall be called, by which insurance be made or renewed upon property of any description (including rents or profits), whether against peril by sea * * * or other peril, made by any person, association or corporation, upon the amount of the premium charged * * *."

The theory of the complaint is that this act is unconstitutional because it violated section 9, Article I, of the Constitution—

"No tax or duty shall be laid on articles exported from any State."

This is the sole question which is raised by this demurrer, for although the United States raises questions of the jurisdiction of this court under the Tucker Act, yet the

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decision of Judge Noyes in Hvoslef *v.* United States is conceded to be conclusive in this court at this time.

The petition alleges that the plaintiff affixed all the stamps in accordance with the law and the requirements of the collector of internal revenue and canceled them over a period of time therein stated. Each of the policies effected marine insurance of certain exported products or merchandise during their transit by sea from the United States to various ports and the products and merchandise so insured were actually exported from the United States to various ports. The policies themselves were required by the custom and usage of business in the export trade, and they accompanied drafts and bills of lading drawn by the exporter against his consignee.

HAND, *District Judge:* The policies of marine insurance in this case may be viewed from two quite separate aspects—first, as necessary incidents of the business of exporting, and, second, as exports themselves by virtue of the allegation that they were sent along with the bills of lading and the drafts to foreign ports. Fairbanks *v.* United States (181 U. S., 283) decided that a tax on a bill of lading was within the prohibition, and the same with respect to manifests was conceded in United States *v.* New York and Cuba Mail Steamship Co. (200 U. S., 488). In Judge Noyes's decision the same ruling was applied to charter parties. Almy *v.* California (24 How., 169) applied the same rule to the taxation by a State of bills of lading of gold and silver exported from the State. These cases extend the meaning of the clause beyond the taxation of the exported goods themselves to the documents which contain the contracts of carriage or the evidence that they are being carried. A marine policy is neither of these; it is a contract to pay a sum of money in the event of their loss and does not concern their carriage in any respect, except that it presupposes that the exportation will take place. The true rule seems to me to be that the taxation of only such contracts is forbidden as involve in their performance some part of the movement of the exports out of the country or of such documents as record that movement. The goods themselves do not become exports until their movement begins (Cornell *v.* Coyne, 192 U. S., 418), and it would seem by analogy that documents recording transactions which touch them should not fall within the clause unless the recorded transactions were a part of the same movement or at least called for it in their complete execution if they were promissory in character. I should regret to base the distinction upon whether the transaction directly or indirectly affected exportation, for that involves a kind of casuistry which generally proves very troublesome in application and conceals the real ground of the decisions.

Nor can I accept the test of whether the tax burdens exportation, provided that the burden is only a part of what goods of the same class bear while within the country. To this Cornell *v.* Coyne, *supra*, is a distinct answer; and shows that any language in Fairbanks *v.* United States, *supra*, to the contrary was not meant to apply universally. A tax upon articles generally though some of them may be exported may have a final economic incidence upon the export, but only along with the rest of its class, and is certainly not what the Constitution was aiming at. Whether such a tax as this levied only upon policies insuring exports would be within the clause is quite another matter. To impose burdens upon exports even in such a roundabout way which other goods do not bear may well be within the clause. Coe *v.* Errol (116 U. S., 517, 526).

In passing I may state that I can not regard the cases relied upon by the United States and holding that the usual insurance business is intrastate as at all in point. None of those cases involved the insurance of goods in interstate commerce, and Congress may well have control over such contracts. The grant of power over interstate commerce is not to be confused with the clause here in question.

There remains the question of whether the insurance policies as documents are themselves exports. This contention is answered by the second reason given for the decision in Turpin *v.* Burgess (117 U. S., 504), and by the decision in Cornell *v.* Coyne, *supra*, holding that the eventual destination of goods did not make them exports until they began to move. In the case at bar, though the policies were all along destined for export, the stamps were affixed before they were issued. After delivery they were

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sent by the assured along with the other documents to foreign countries, but until that time they could at any time be recalled, and they remained a part of the general mass of goods in the country.

The demurrer is sustained, and unless the plaintiff amends within 10 days, judgment will be entered dismissing the complaint upon the merits.

(T. D. 2010.)

Medicinal preparation.

List of alcoholic medicinal preparations amended removing from T. D. 1994 the name of "Beef, Iron, and Wine," produced by the Owl Drug Co.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 4, 1914.

To collectors of internal revenue, revenue agents, and others:

"Beef, Iron, and Wine," produced by the Owl Drug Co., of San Francisco, Cal., was listed, through error, in T. D. 1994, revised list of alcoholic medicinal preparations for the sale of which special tax is required.

The above preparation as now prepared has been classed by this office as a medicinal compound, for the sale of which, solely in good faith for medicinal use, special-tax liability is not incurred.

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

(T. D. 2011.)

Income tax.

Taxability of commissions on renewal premiums for insurance.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 28, 1914.

To collectors of internal revenue:

Commissions on renewal premiums for insurance are income when received and income for the period in which received. Therefore, commissions on renewal premiums received between March 1 and December 31, 1913, are taxable income for that period and should be included in returns of income for 1913.

Where commissions on renewal premiums received by individuals between March 1 and December 31, 1913 (including commissions on renewal premiums on business written prior to March 1, 1913, and payable and paid subsequent to that date), were not included in returns of income of such individuals for 1913, they should file amended returns and include in such amended returns the amount of said commissions on renewal premiums.

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Where returns of annual net income were not made by individuals in receipt of commissions on renewal premiums because of insufficient income to require a return of income, and such showing of insufficient income was caused by the exclusion from the return of said commissions on renewal premiums, such individuals should make and file returns of income and include therein the commissions received by them on renewal premiums within the period from March 1 to December 31, 1913.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2012.)

Income tax.

Extending exemption certificate No. 1063, as prescribed in T. D. 1998, to nonresident alien individuals.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 30, 1914.

To collectors of internal revenue:

Exemption certificate 1063, as provided in T. D. 1998, is hereby extended to and made applicable to the use of persons who are nonresident aliens in claiming exemption from income tax on dividends payable in the United States from stock of foreign corporations.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
CHARLES S. HAMLIN,
Acting Secretary of the Treasury.

(T. D. 2013.)

Income tax.

Nonresident aliens—Amendment of article 8 of Regulations 33, providing for the collection of tax on income of nonresident aliens derived from trades or professions in the United States.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 12, 1914.

To collectors of internal revenue:

Article 8, Income Tax Regulations 33, is hereby amended by adding thereto the following:

The person, firm, company, copartnership, corporation, joint-stock company or association, and insurance company in the United States—citizen or resident alien—

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in whatever capacity acting, having the control, receipt, disposal, or payment of fixed or determinable annual or periodical gains, profits, and income, of whatever kind, to a nonresident alien, under any contract or otherwise, and which payment shall represent income of a nonresident alien from the exercise of any trade or profession within the United States, shall make return for such nonresident alien on Form 1040 and shall pay any and all tax—normal and additional tax—chargeable upon the said income of such nonresident alien.

So that article 8 as amended shall read:

ART. 8. The income of nonresident aliens subject to the normal tax of 1 per cent shall consist of the total gains, profits, and income derived from all property owned and from every business, trade, or profession carried on within the United States (to be designated as gross income), less deductions (1 to 8, inclusive) specifically enumerated in paragraph B of the act (see art. 6), in so far as said deductions relate to said gains, profits, etc.

The specific exemption in paragraph C of the act can not be allowed as a deduction in computing the normal tax of nonresident aliens.

Nonresident aliens are subject to additional or surtax the same as prescribed in the case of citizens of the United States or persons residing in the United States.

The responsible heads, agents, or representatives of said nonresident aliens who are in charge of the property owned or business carried on shall make full and complete return of said income and shall pay the tax as provided herein.

The person, firm, company, copartnership, corporation, joint-stock company or association, and insurance company in the United States—citizen or resident alien—in whatever capacity acting, having the control, receipt, disposal, or payment of fixed or determinable annual or periodical gains, profits, and income, of whatever kind, to a nonresident alien, under any contract or otherwise, and which payment shall represent income of a nonresident alien from the exercise of any trade or profession within the United States, shall make return for such nonresident alien on Form 1040 and shall pay any and all tax—normal and additional tax—chargeable upon the said income of such nonresident alien.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2014.)

Wholesale liquor dealers.

Distillers not liable to special tax as wholesale liquor dealers for sales of spirits of their own production at the place of storage in bond after the expiration of their bonds as active distillers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 15, 1914.

To collectors of internal revenue and others concerned:

Subsection 4 of section 3244, Revised Statutes, provides:

But no distiller who has given the required bond and who sells only distilled spirits of his own production at the place of manufacture, or at the place of storage in bond, in the original packages to which the tax-paid stamps are affixed, shall be required to pay the special tax of wholesale liquor dealer on account of such sales.

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The manifest purpose of this provision is to enable distillers to sell their own production at any time within the bonded period without incurring further burdens.

The distiller gives the required bond when he produces the spirits and also gives the required warehousing bond when said spirits are placed in the warehouse where the same is held in the joint custody of the distiller and the Government. No additional security is obtained by requiring a distiller's bond to be given after the distiller has ceased active operations as a distiller and is therefore unnecessary.

Collectors will not require annual bonds of distillers who do not continue in the business of distilling nor will such distillers incur special tax as wholesale liquor dealers by reason of sales of spirits of their own production at the place of storage in bond after the distiller has ceased active operations as a distiller.

All instructions in conflict herewith are revoked.

G. E. FLETCHER,
Acting Commissioner of Internal Revenue.

(T. D. 2015.)

Income tax.

Compromises—Minimum amounts which will be accepted.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 13, 1914.

To collectors of internal revenue:

The fact has been developed that a great number of individuals and corporations failed to make returns of annual net income for the income tax, either through ignorance of the requirements of the law or through a misunderstanding of its requirements, and it has been determined by the Treasury Department to accept offers in compromise of the specific penalty for failure to file returns within the period prescribed by law in a minimum sum, as follows: $5 from individuals, $10 from corporations which are organized for profit.

In the cases of all corporations not organized for profit, the specific penalty will not be asserted this year, provided the required return has been or shall be filed before December 31, 1914. The United States district attorney should be requested not to institute proceedings in such cases.

The foregoing applies only to those cases where there was no intent to evade the law or escape taxation.

In all cases, however, wherein a return is not made until the liability to make a return is discovered by investigation of collectors of internal

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revenue or revenue agents, the above schedule will not necessarily apply, but each individual case will be decided upon its own merits and the amount of the offer in compromise which may be favorably considered will be determined accordingly.

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2016.)

Income tax.

Inspection of income-tax returns—Executive order—Regulations.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 18, 1914.

To internal-revenue officers and others concerned:

The following Executive order, together with regulations signed by the Secretary and approved by the President, relative to the publicity feature of section 2 of the act of October 3, 1913, imposing an income tax, is hereby published for your information.

W. H. OSBORN,
Commissioner of Internal Revenue.

EXECUTIVE ORDER.

Pursuant to the provisions of Section 2 of the Tariff Act of October 3, 1913, said section providing for an income tax, and which contains in paragraph G, sub-paragraph (d) the following provision,

When the assessment shall be made, as provided in this section, the returns, together with any corrections thereof which may have been made by the Commissioner, shall be filed in the office of the Commissioner of Internal Revenue and shall constitute public records and be open to inspection as such: *Provided*, That any and all such returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President: *Provided further*, That the proper officers of any State imposing a general income tax may, upon the request of the governor thereof, have access to said returns or to any abstract thereof, showing the name and income of each such corporation, joint stock company, association or insurance company, at such times and in such manner as the Secretary of the Treasury may prescribe,

it is hereby ordered, that all such returns shall be subject to inspection in accordance and upon compliance with rules and regulations prescribed by the Secretary of the Treasury and approved by the President, bearing even date herewith.

WOODROW WILSON

THE WHITE HOUSE, *July 28, 1914.*

[No. 1999.]

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INSPECTION OF RETURNS.

Regulations governing the inspection of returns of corporations, joint-stock companies, associations, or insurance companies, made in compliance with the requirements of section 2, act of October 3, 1913. Returns of individuals are not open to the inspection of anyone except the proper officers and employees of the Treasury Department.

TREASURY DEPARTMENT,
Washington, D. C., July 28, 1914.

By section 2 of the act of October 3, 1913, Congress imposed a tax upon the entire net income arising or accruing from all sources to every citizen of the United States, whether residing at home or abroad, and to every person residing in the United States, though not a citizen thereof, and upon the entire net income from all property owned and of every business, trade, or profession carried on in the United States by persons residing elsewhere, and upon every corporation, joint-stock company or association, and every insurance company, with certain exceptions, engaged in business in the United States, and prescribed the method of handling the returns of annual net income filed in compliance with said law, as follows:

(d) When the assessment shall be made, as provided in this section, the returns, together with any corrections thereof which may have been made by the Commissioner, shall be filed in the office of the Commissioner of Internal Revenue and shall constitute public records and be open to inspection as such: *Provided*, That any and all such returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President: *Provided further*, That the proper officers of any State imposing a general income tax may, upon the request of the governor thereof, have access to said returns or to an abstract thereof, showing the name and income of each such corporation, joint stock company or association or insurance company, at such times and in such manner as the Secretary of the Treasury may prescribe.

For the purpose of making effective the legislative intent thus expressed, the President has ordered that such returns shall be open to inspection under the following rules and regulations. The word "corporation," when used alone herein, shall be construed to refer to corporations, joint stock companies or associations, and insurance companies.

1. The return of every individual, and of every corporation, joint stock company or association, and every insurance company, whether foreign or domestic, shall be open to the inspection of the proper officers and employees of the Treasury Department. Returns of individuals shall not be subject to inspection by anyone except the proper officers and employees of the Treasury Department.

2. Where access to any return of any corporation is desired by an officer or employee of any other department of the Government, an application for permission to inspect such return, setting out the reasons therefor, shall be made in writing, signed by the head of the executive department or other Government establishment in which such officer or employee is employed, and transmitted to the Secretary of the Treasury. If the return of a corporation is desired to be used in any legal proceedings other than those to which the United States is a party, or to be used in any manner by which any information contained in the return could be made public, the application for permission to inspect such return or to furnish a certified copy thereof shall be referred to the Attorney General, and if recommended by him transmitted to the Secretary of the Treasury.

3. All returns, whether of persons or of corporations, joint stock companies or associations, or insurance companies, may be furnished, upon approval of the Secretary of the Treasury, for use, either in the original or by certified copies thereof, in any legal proceedings before any United States grand jury or in the trial of any cause to which both the United States and the person or corporation or association rendering the return are parties either as plaintiff or defendant, and in the prosecution or defense or trial of which action, or proceeding before a grand jury, such return would constitute material evidence, but in any case arising in the collection of the income tax,

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the Commissioner of Internal Revenue may furnish for use to the proper officer either the original or certified copies of returns without the approval of the Secretary of the Treasury. In all cases where the use of the original return is necessary, it shall be placed in evidence by the Commissioner of Internal Revenue or by some officer of the Bureau of Internal Revenue designated by him for that purpose, and after such original return has been placed in evidence it shall be returned to the files in the office of the Commissioner of Internal Revenue at Washington, D. C.

4. The Secretary of the Treasury, at his discretion, upon application to him made, setting forth what constitutes a proper showing of cause, may permit inspection of the return of any corporation, by any bona fide stockholder in such corporation. The person desiring to inspect such return shall make application, in writing, to the Secretary of the Treasury, setting forth the reasons why he should be permitted to make such inspection, and shall attach to his application a certificate, signed by the president, or other principal officer, of such corporation, countersigned by the secretary, under the corporate seal of the company, that he is a bona fide stockholder in said company. (Where this certificate can not be secured, other evidence will be considered by the Secretary of the Treasury to determine the fact whether or not the applicant is a bona fide stockholder and, therefore, entitled to inspect the return made by such company.) Upon receipt of such application the corporation whose return it is desired to inspect shall be notified of the facts and shall be given opportunity to state whether any legitimate reason exists for refusing permission to inspect its returns of annual net income by the stockholder applying for permission to make such inspection. The privilege of inspecting the return of any corporation is personal to the stockholders, and the permission granted by the Secretary to a stockholder to make such inspection can not be delegated to any other person.

5. The returns of the following corporations shall be open to the inspection of any person upon written application to the Secretary of the Treasury, which application shall set forth briefly and succinctly all facts necessary to enable the Secretary to act upon the request:

(a) The returns of all companies whose stock is listed upon any duly organized and recognized stock exchange within the United States, for the purpose of having its shares dealt in by the public generally.

(b) All corporations whose stock is advertised in the press or offered to the public by the corporation itself for sale. In case of doubt as to whether any company falls within the classification above, the person desiring to see such return should make application, supported by advertisements, prospectus, or such other evidence as he may deem proper to establish the fact that the stock of such corporation is offered for general public sale.

Returns can be inspected only in the office of the Commissioner of Internal Revenue, in Washington, D. C. In no case shall any collector, or any other internal revenue officer outside of the Treasury Department in Washington, permit to be inspected any return or furnish any information whatsoever relative to any return or any information secured by him in his official capacity relating to such return, except in answer to a proper subpœna, in a case to which the United States is a party.

6. Returns of individuals shall not be open to the inspection of any person other than the proper officers and employees of the Treasury Department or person rendering the same, and are under no conditions to be made public, except where such publicity shall result through the use of such returns in any legal proceedings in which the United States is a party.

7. Upon request of the governor of a State imposing a general income tax, the proper officer of such State, to be designated by name and official position by the governor of such State in his application to the Secretary of the Treasury, may have access to the returns or to abstracts thereof showing the name and income of each corporation, joint stock company or association, or insurance company, at such times and in such manner as the Secretary of the Treasury may prescribe. Such application shall be made in writing, addressed to the Secretary of the Treasury and shall show (first)

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that the State, whose governor makes the request, imposes a general income tax; (second) the name and address of each corporation, etc., to which access is desired; (third) why permission to inspect the returns of the corporations, etc., named in the request is desired, and (fourth) what officer or officers are designated to make the desired inspection, giving their names and official designations. Such request must be signed by the governor of the State and sealed with the seal thereof, and shall be transmitted to the Secretary of the Treasury for his consideration and action thereon.

No provision is made in the law for furnishing a copy of any return to any person or corporation, and no copy of any return will be furnished to any other than the person or corporation making the return, or their duly constituted attorney, except as hereinbefore authorized.

The provisions herein contained shall be effective on and after the 1st day of September, 1914.

W. G. McAdoo,
Secretary of the Treasury.

Approved:
Woodrow Wilson,
The White House, July 28, 1914.

(T. D. 2017.)

Income tax.

Nontaxability of interest from bonds and dividends on stock of domestic corporations owned by nonresident aliens.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., August 25, 1914.

To collectors of internal revenue:

Interest on bonds of domestic corporations and dividends on stock of domestic corporations owned by nonresident aliens, and whether such bonds and stock be physically located within or without the United States, are not subject to the income tax.

W. H. Osborn,
Commissioner of Internal Revenue.

Approved:
W. G. McAdoo,
Secretary of the Treasury.

(T. D. 2018.)

Withdrawal of distilled spirits for export.

Form 179 not required in cases of withdrawal of distilled spirits for export.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., August 27, 1914.

Sir: This office is in receipt of your letter of August 18, 1914, with inclosure, requesting advice as to the filing of Form 179 in connection with withdrawals of distilled spirits for export.

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In reply, you are advised that as the application of the owner and the distiller of spirits on Form 206 for the regauge and withdrawal of such spirits for export answers every requirement of law and the regulations of this department, Form 179 need not be filed in connection with the regauge and withdrawal of spirits for export.

G. E. FLETCHER,
Acting Commissioner of Internal Revenue.

COLLECTOR, FIFTH DISTRICT, *Louisville, Ky.*

(T. D. 2019.)

Use of tank cars to transfer brandy for fortification purposes.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 26, 1914.

To collectors of internal revenue:

(1) Attention of the department has been called to certain parts of Article 14A of Regulations No. 28, revised May 14, 1913, which are not clear or do not cover all the contingencies that may arise in transporting brandy for fortification purposes by tank car.

When a tank car is registered with the collector, the net wine-gallon capacity when filled so as to include 2 inches of the expansion dome (which point will be permanently marked in the dome) will be stated. This capacity will be verified by the collector, which capacity will thereafter be regarded as the official gauge of the car or until there is reason to believe that said gauge is inaccurate, when a regauge of the car will be made. These official gauges should be established by actual liquid measurements and not by computation. The net wine-gallon capacity will be legibly painted or stenciled on the side or dome of the car near the serial number and other designating marks on the car.

(2) All pumps, pipes, or other appliances when used in withdrawing brandy from the distillery to the tank cars and from the tank cars to the fortifying room must be above ground and in plain sight and under the control of the officer assigned to the work. Such appliances to be considered in use during the time of filling or emptying of the tank cars.

(3) In making application on Form 257 for withdrawal by tank car the distiller, in addition to the information now required, will state in said application the official gauge of the car to be used.

The gauger at the distillery will inspect the car to see that the same is in proper condition, as required by Article 14A, and that the serial number of the car and the net wine-gallon capacity as marked on the car agree with Form 257. It will not be necessary to take the

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dimensions of the car nor to enter said dimensions on Form 59½ nor Form 257.

Tank cars may be held on the railway spur or siding alongside the fortifying room, or near enough to said fortifying room to enable the gauger in charge of said room to have surveillance of both car and fortifying room, and said tank car with lock and pipes leading therefrom entirely under his control. Said tank cars will be considered as temporary brandy-storage tanks situated within the fortifying room, providing no rule or order of the railway commission of the State is violated. When tank cars are regarded and designated as brandy-storage tanks as a part of the fortifying room, a cylindrical metal measuring tank of small diameter equipped as directed in Article 14 should be installed within the fortifying room. Only the proper quantity required to fortify one tank of wine material can be drawn directly into this tank from the tank car and thence to the tank of wine material to be fortified. Any brandy found in the dome when received will be allowed to drain back into the cylinder of the car when the dome is opened.

The use of tank cars as storage tanks is only for emergency cases, where the fortifying room is not now properly equipped with brandy-storage tanks. All wine makers who propose to avail themselves of the privilege of using tank cars will be expected to install within their fortifying room a tank or tanks of sufficient capacity to contain brandy so received before another season begins.

In all cases where tank cars are to be used as brandy-storage tanks such fact should be set forth in Form 605 on the back of Form 256, bond of wine maker, and the plat should show the position of the car with reference to the location of the fortifying room.

Collectors will use due diligence in supervising the use of tank cars, and especially when said tank cars are to be used as brandy-storage tanks, and in every case the consent of the surety on the bond must be obtained. Such tank cars will remain locked with a Government lock when used as a temporary storage tank.

On page 35, after the words "serial number of car," insert "net wine-gallons capacity."

The officer supervising the fortification will enter on supplemental Forms 257 and 275 the indication, temperature, proof, wine and proof gallons, and will add to said forms the words "Above brandy used from tank car No. ——, received from distillery No. 4, —— District of ——."

For the adjusting of variances of gauge one-fourth of 1 per cent will be allowed; that is, if the proof as ascertained by the gauger at the winery is found to be more or less than that of the gauger at the distillery an adjustment will be allowed as above, to be added to or taken away, as the case may be. No allowance will be made for

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shrinkage from any cause, and the receiving gauger will notify the collector of any loss, and the payment of the tax at $1.10 per tax gallon on all such loss will in all such cases be required.

The foregoing is a modification of, and not a substitute for, Article 14A of Regulations No. 28.

G. E. FLETCHER,
Acting Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2020.)

Old forms of certificates of ownership.

Use of old forms of ownership certificates, which have been executed prior to October 1, will be accepted.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 25, 1914.

To collectors of internal revenue:

When coupons from bonds due on or subsequent to October 1, 1914, are accompanied by certificates of ownership which were properly executed on or prior to October 1, 1914, on the old forms prescribed prior to May 2, 1914, such certificates will be accepted.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2021.)

Oleomargarine.

Supplement 2 to Regulations No. 9, revised July, 1907, concerning destruction of oleomargarine returned to manufacturers or wholesale dealers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 28, 1914.

To collectors of internal revenue:

Regulations No. 9, page 47, paragraph 4, concerning the destruction of oleomargarine returned to manufacturers or wholesale dealers, is hereby amended as follows:

If any "returned" oleomargarine is sold again intact, or destroyed, dumped for grease, or taken up in the material account to be worked over, all the details should likewise be entered in this book under the special heading "Withdrawal of returned oleomargarine." But "returned" oleomargarine, unless sold again intact, should not be disposed of except under the inspection of an internal-revenue officer.

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Where, however, for any good reason, it is not practicable for such officer to witness the destruction at factories or wholesale dealers' establishments, over which the Department of Agriculture exercises inspection, the inspector of that department who witnesses the destruction may certify to the same, and his certificate, if in conformity with the regulations, will be accepted.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. McADOO,
Secretary of the Treasury.

(T. D. 2022.)

Income tax.

Waiver until further notice of regulation requiring the filling in on certificates of numbers of bonds.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 3, 1914.

Notice is hereby given that regulation requiring the filling in on certificates of numbers of bonds or other like obligations of corporations, etc., from which interest coupons are detached or upon which registered interest is to be paid—which was extended to October 31, 1914, by T. D. 1985, issued May 28, 1914—is hereby waived until further notice.

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

Approved:
W. G. McADOO,
Secretary of the Treasury.

(T. D. 2023.)

Income tax.

Amending article 58, Income Tax Regulations 33, requiring indorsement or stamp on foreign coupons, checks, bills of exchange, etc.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 12, 1914.

To collectors of internal revenue:

Article 58, Income Tax Regulations 33, is hereby amended to read as follows:

ARTICLE 58. The licensed person, firm, or corporation first receiving such foreign items for collection, or otherwise, shall withhold therefrom the normal tax of 1 per

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cent, and will be held responsible therefor. If the foreign item is in the form of a check or bill of exchange, the words "Income tax withheld by ———" (giving name, address, and date) shall be indorsed or stamped thereon by such licensee; but if the item is represented by a coupon or coupons from bonds, the licensee shall attach thereto a statement identifying the same, and the indorsement or stamp showing the tax withheld shall be placed on the statement instead of the coupon or coupons.

Said indorsement or stamp shall be sufficient evidence of tax withheld to relieve subsequent holders or purchasers from the obligations of withholding.

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2024.)

Income tax.

Amendment of article 192 of Regulations No. 33, providing that collectors should not retain copies of returns in their offices.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 15, 1914.

To collectors of internal revenue:

Referring to article 192 of Regulations No. 33, wherein it is provided that—

Where in any case the collector has reason to believe that any return rendered is false or fraudulent, he will prepare and retain in his office a copy of such return, and will note on the original and under the head of "Remarks" of his assessment list the words "Investigation pending." He will in all such cases make his investigation in the manner prescribed in section 3173, Revised Statutes, and paragraph D of said act of October 3, 1913; and he will report the results of his investigation to the Commissioner of Internal Revenue, referring to the list, folio, and line on which the assessment was reported,

you are informed that inasmuch as these investigations are to be made by the revenue agents' force, the portion of the article of Regulations No. 33 quoted above is hereby annulled.

Collectors should not under any conditions retain copies of returns in their offices, but when information relative to any return of annual net income filed by any taxpayer is necessary in connection with the assessment and collection of the income tax the same may be secured from the Commissioner of Internal Revenue at Washington.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2025.)

Leaf dealers to report in Book 59 factory numbers of manufacturers to whom sales are made.

Requiring dealers in leaf tobacco to fill in column headed "Business" in Book 59, to show the kind of factory (cigar or tobacco) and factory number of the manufacturers to whom sales of leaf tobacco are reported or from whom tobacco is returned, and instructing manufacturers in ordering tobacco to indicate whether same is to be charged to cigar or tobacco factory, giving the factory number.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 15, 1914.

To collectors of internal revenue:

In order to facilitate the checking of sales of leaf tobacco reported in Book 59 of dealers in leaf tobacco to manufacturers of cigars and tobacco, you will require dealers in leaf tobacco to supply in Book 59, in the column headed "Business," the number of the factory operated by the manufacturer to whom each sale is entered and immediately preceding the number the letter "C" or "T" for "cigar" or "tobacco" factory, as the case may be. When tobacco is returned and debit is made of same in red ink on Book 59, column headed "Business" shall be filled in also in accordance with the above instructions.

Manufacturers of cigars and tobacco, in ordering leaf tobacco from dealers in leaf tobacco, should be required to give their factory number and to indicate by letter "C" or "T" whether the tobacco is to be charged to a cigar or tobacco factory. Manufacturers of tobacco and cigars instructing dealers in leaf tobacco as above will be required to account for the tobacco in accordance with said instructions upon their books and monthly returns, and the tobacco must actually be received upon the premises of the factory to which charged.

Extra copies of this decision will be printed and a sufficient supply sent to each collector of internal revenue for distribution to each dealer in leaf tobacco and manufacturer of tobacco and manufacturer of cigars in his district.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2026.)

Fermented liquors—Additional tax on liquors on storage, and increase in rate of tax under act of October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 24, 1914.

To collectors of internal revenue and others concerned:

The act approved October 22, 1914, imposes a tax of $1.50 a barrel on fermented liquors, and provides for the assessment and collection of the additional tax at the rate of 50 cents a barrel on all fermented liquors removed from the brewery premises prior to the date when the act took effect and which on that date were stored in warehouse, and to which a stamp denoting the tax at the rate of $1 per barrel had been affixed at the time of removal. This provision for additional tax on beer stored in warehouse is held to apply to all fermented liquors in the possession of brewers or their agents, whether contained in ordinary packages or in bottles, when the act took effect. For the purpose of assessing and collecting such additional tax, every brewer or agent of a brewer having stored in warehouse any fermented liquors which had been removed from the brewery where produced prior to October 23, 1914, bearing the proper stamp at the rate of $1 per barrel shall make and render to the collector of the district a return, in duplicate, under oath, on Form 417, Revised October 23, 1914, of the quantity therof so held. Personal investigation will be made in each case by a deputy collector, who will certify to the accuracy of the return, or if he is not satisfied as to its accuracy, he will so state, and indicate the quantity which he believes to be correct. In case of substantial disagreement between the return and the deputy collector's statement the collector will make further investigation to satisfy himself as to the proper quantity and enter the same accordingly on his list, Form 23.

Collectors will at once furnish blank Forms 417 to each brewer, or agent of a brewer, in their respective districts, and require the returns to be made in accordance with the printed instructions thereon. The return must show the quantity of fermented liquors on hand on the morning of October 23, 1914, before the commencement of business. If any liquors subject to the additional tax have been removed in the interval between that time and the time when the return is actually made, the quantity returned will be the quantity of such liquors on hand when the return is made, together with the quantity of such liquors removed in the interval.

One copy of the return with the deputy collector's certificate is to be filed in the collector's office, and the other is to be forwarded to the Commissioner of Internal Revenue, and the additional tax found

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to be due as shown by the return will be entered by the collector on his next list, Form 23.

In making up Form 18 for October, 1914, brewers will show separately, by interlineation, the quantities of fermented liquor sold or removed for consumption or sale by pipe line (where pipe lines exist) and by the package for the two portions of the month, viz, the portion before the 23d and the portion commencing with the 23d. In the stamp account on Form 18 brewers will also show separately, by interlineation, the number and kind of stamps purchased by them at the old and new rates, and the number and kind of stamps used at the old and new rates on beer transferred by pipe line (where pipe lines exist) and by the package, and also the number and kind of stamps at the old and new rates remaining on hand in their possession at the close of the month. Instead of one return, Form 18, for the month of October, the brewer may at his option render two returns, one for the portion of the month prior to the 23d and the other for the remaining portion, care being taken to show in the stamp account the number and kind of stamps, at the rate of $1.50 per barrel, purchased, used, and on hand. Brewers will also make entries in the account of "Stamps purchased" on Record Form 104 in such a way as to distinguish between those at the rate of $1 and those at the rate of $1.50.

The attention of collectors is called to the fact that the increase in the rate of tax is likely to make necessary the giving of new bonds by brewers, in increased amounts, in order to satisfy the requirements of section 3336, Revised Statutes. Each new bond given on and after December 1, 1914, will by the terms of the act, while the same is in force, require a documentary stamp of the value of 50 cents.

Collectors will supply brewers and their agents with copies of this Circular.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2027.)

Domestic and imported wines, liqueurs, cordials, etc.

Dealers to keep an account of sales pending receipt of appropriate tax stamps.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 24, 1914.

To collectors of internal revenue and others concerned:

In view of the fact that the provisions of the revenue law, approved October 22, 1914, relating to the stamp taxes imposed on

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domestic and imported wines, cordials, etc., went into effect October 23, 1914, and that appropriate stamps for the payment of such taxes have not yet been provided, retail dealers in such unstamped wines, and wholesale dealers selling such wines to persons other than dealers must, until such stamps may be procured, keep a strict account of all such unstamped wines sold by them on and after October 23, 1914; and, upon procuring the necessary stamps, must at once render to the collector of the district a sworn statement of all such sales made by them and must transmit with such statement canceled stamps showing payment of tax on all such wines so sold. The required statement should be in the following form:

Dealers' return of sales of unstamped wines taxable under the revenue act, approved October 22, 1914.

Special-Tax Stamp No. ———. ——— District of ———, ———, ———, *1914.*

The undersigned a ———[1] liquor dealer, doing business at ——— in the ——— district of ———, on oath states that the following is a full and true account of all unstamped domestic and imported wines taxable under the provisions of an act of Congress, approved October 22, 1914, sold by him (or them) on and after October 23, 1914, up to and including the ——— day of ———, 1914; and that the attached canceled stamps cover all taxes due on the unstamped wines so sold.

Kinds of wine.	Rate of tax per quart.	Number of bottles or containers.					Amount of tax.
		Not more than one-fourth pint.	Not more than one-half pint.	Not more than one pint.	Not more than one quart.	Gallons.[a]	
	Cents.						
Still wines	2	.....	.....	.....	.....	.....	$.....
Champagne and other sparkling or artificially carbonated wines	20	.....	.....	.....	.....	.....	.....
Liqueurs, cordials, or other similar compounds	6	.....	.....	.....	.....	.....	.....

[a] In bottles or containers not otherwise here designated.

———, ———,
Dealer.

Subscribed and sworn to before me this —— day of ———, 1914.

———, ———.

[Seal.]

Upon receipt of this circular, collectors will see that a copy thereof is at once furnished to each wholesale and retail liquor dealer in their respective districts; and that on receipt of the dealers' statements herein required, the same, with the canceled stamps (in sealed envelopes) securely attached, should be at once forwarded to the Commissioner of Internal Revenue.

W. H. Osborn,
Commissioner of Internal Revenue.

Approved:
W. G. McAdoo,
Secretary of the Treasury.

[1] "Wholesale" or "retail."

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(T. D. 2028.)

Income tax—Five per cent penalty and interest on delayed payments.

The 5 per cent penalty and interest on delayed payment of assessed income taxes in the case of persons absent in foreign countries held to be due unless payment is forwarded within ten days after notice and demand, Form 17, should have been received in the ordinary course of the mails.—T. D. 1659 modified.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 24, 1914.

To collectors of internal revenue:

In the last sentence of paragraph E of section 2 of the act of October 3, 1913, it is provided:

* * * And to any sum or sums due and unpaid after the thirtieth day of June in any year, and for ten days after notice and demand thereof by the collector there shall be added the sum of 5 per centum on the amount of tax unpaid, and interest at the rate of 1 per centum per month upon said tax from the time the same becomes due, except from the estates of insane, deceased, or insolvent persons.

By reason of absence in foreign countries or on account of traveling abroad, it is impossible for many individuals to receive notice and demand on Form 17 and make payment of the taxes assessed thereon so the same can be received by the collector within the 10-day period following June 30 or within the 10-day period following the service of the notice. You are requested, therefore, to enter on Form 17, as the date on which such assessed tax becomes due and payable, as near as possible, a date 10 days subsequent to the time that said notice should be received in the ordinary course of the mails by the taxpayer, and where it appears that the full amount of tax assessed was placed in the mails within the 10-day period after the receipt of Form 17, or in case notice so sent is not delivered in due time by reason of delay in the mail and satisfactory evidence of that fact is furnished the penalty and interest in such cases will not be collected. In the latter cases the envelope inclosing the notice and bearing the postmark of the receiving office should be forwarded to the collector and by him transmitted to this office with Form 325 as evidence of delay in the delivery of notice so sent.

This ruling applies solely to the collection of income tax from individuals and includes Government officers. T. D. 1659 is modified accordingly.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2029.)

Income tax.

Corporations desiring to make returns of annual net income on the basis of a fiscal year must, not less than 30 days prior to the first day of March, give notice in writing to the collector, designating in such notice the last day of some month as the close of the fiscal year, in which case the fiscal year return will cover a 12-months period. The return for that portion of the calendar year preceding the beginning of the fiscal year will be filed on or before March next following.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 24, 1914.

To collectors of internal revenue:

Reference is made to T. D. 2001, relative to the designation by corporations of a fiscal year other than a calendar year as a basis for making returns of annual net income.

You are informed that every corporation amenable to the income-tax law in existence at the close of a calendar year is required to file a return covering all or any part of the preceding calendar year during which it may have been in existence on or before March 1, provided such corporation has not established or does not establish a fiscal year.

In order to establish a fiscal year it is necessary for the corporation to give notice to you in writing designating the last day of some month as the close of its fiscal year. This notice must be filed not less than 30 days prior to March 1 of the year in which the fiscal-year period of 12 months *closes*. A return for that portion of the calendar year preceding the commencement of the fiscal period of 12 months is required to be filed on or before March 1 of the year next following the calendar year of which it is a part, and the return for the first full fiscal year is required to be filed on or before the last day of the 60-day period following the close of the fiscal year.

Example: A corporation desiring to establish its fiscal year as ending on June 30, 1915, must file notice not less than thirty (30) days prior to March 1, 1915, on or before January 29, 1915. A return for the period January 1 to June 30, 1914, must then be filed on or before March 1, 1915, and a return for the first fiscal year period (July 1, 1914, to June 30, 1915) must be filed on or before August 29, 1915.

That portion of the year preceding the beginning of an established fiscal year is held to be a fractional part of the calendar year, and as the return of a calendar year is not required to be filed until on or before the first day of March next following, there is no provision of law whereby the return covering a fraction of a calendar year is required to be filed earlier than "on or before" the next

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March 1st, though it is preferred that the return for this fraction shall be filed as early as possible after the close of the period.

The above instructions are supplemental to T. D. 2001, and rulings or decisions heretofore issued in conflict with the foregoing are hereby revoked.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. McADOO,
Secretary of the Treasury.

(T. D. 2030.)

Income tax.

Exemption certificate provided for use of banks and bankers, either foreign or domestic, claiming exemption from income tax on dividends from stock of foreign corporations owned by nonresident aliens.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 13, 1914.

To collectors of internal revenue:

The following certificate is hereby provided, which may be executed by responsible banks or bankers, either foreign or domestic, for and on behalf of nonresident owners of stock of corporations of foreign countries, for the purpose of claiming exemption from the income tax on dividends from such stock:

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Form ——.

EXEMPTION CERTIFICATE—BANKS OR BANKERS, EITHER FOREIGN OR DOMESTIC.

(For the use of responsible banks or bankers, either foreign or domestic, for and on behalf of nonresident owners of stock of corporations of foreign countries.)

(Give name of foreign corporation.)

(Full description of stock, stating whether common or preferred, or both.)

Amount of dividends, $——

I (we) do solemnly declare that the owners of the stock of foreign corporations upon which the aforesaid dividends were declared are nonresident aliens as to the United States and are exempt from the income tax imposed on such income by the United States Government under the law enacted October 3, 1913; that no citizen of the United States, wherever residing, or foreigner residing in the United States, or in any of its possessions, has any interest in said stock; and that all of the information as given in this certificate is true and correct. I (we) hereby agree that if at any time it shall appear that the income or any part thereof represented or covered by this certificate was, or is, subject to the normal tax imposed by the United States, upon presentation of proof of that fact to me (us) by, from, or through the Commissioner of Internal Revenue, Washington, D. C., I (we) will pay and remit to the United States Government the amount of tax claimed to be due; and I (we) hereby further agree that whenever in the judgment of the Commissioner of Internal Revenue it shall be necessary in or to the administration of the income-tax law, I (we) will, upon request of said Commissioner of Internal Revenue, disclose and furnish to him the names and addresses of the owners and the amount of the stock aforesaid.

Date----------, 191

(Name of bank or banker.)

By ---
(Signature of official authorized to sign.)

(Official position.)

(Full post-office address of bank or banker.)

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

TREASURY DEPARTMENT.
INTERNAL REVENUE—INCOME TAX.

The above certificate shall be in size 8 by 3½ inches, and shall be printed to read from left to right along the 8-inch dimension.

The certificate shall be printed on yellow paper, and such paper shall correspond in weight and texture to white writing paper, 21 by 32, about 40 pounds to the ream of 500 sheets.

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The certificate hereby authorized will be printed by the Government and furnished without cost.

Banks or bankers desiring to furnish their own certificates may do so, but the certificate so printed must conform in size to that prescribed above and be printed in similar type upon the same color, shade, and weight of paper as used by the Government.

Sample certificates showing size of type and color of paper can be secured from collectors of internal revenue in their several districts or from the Commissioner of Internal Revenue, Washington, D. C.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2031.)

Report on Form 22.

Instructions relative to reporting collection of additional taxes provided for by the act of October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 26, 1914.

To collectors of internal revenue:

For reporting collection of certain taxes on Form 22 for the month of October and until a revision of said blank form may be had, under provisions of act of October 22, 1914, "to increase the internal revenue, and for other purposes," the following instructions are issued:

Interline and enter on present form under classification of "Distilled spirits" and "Fermented liquors," respectively, as follows:

Abstract number.		
4½	Still wines (2 cents a quart); champagne and other sparkling wines, including all artificially carbonated wines (20 cents a quart); and liqueurs, cordials, or similar compounds (6 cents a quart)—domestic and imported.	
12½	Grape brandy used in fortification of sweet wine, per taxable gallon	$0.55
	(As to reporting tax on wines, see T. D. No. 2027, dated October 24, 1914.)	
20½	Fermented liquors, per barrel	1.50
21½	Fermented liquors (stored in warehouse), per barrel	.50

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The tax on only the above-mentioned articles became effective on October 23, 1914. These articles, with their original rates of tax as enumerated opposite abstract numbers 13 and 21, will be retained in the revised Form 22 for the remainder of the current fiscal year.

Form 22, now in course of revision, will provide for reporting all taxes collected under the recent act, and a supply of the new blanks should be received by collectors in time for the November reports. It may be further stated that collections of all special taxes provided for in the act are required to be reported *separately*.

Such entries relating to the collection of these special taxes and other taxes provided for should be made daily in Record 35—tickler for Form 22—as will facilitate the assembling of the data for the report (Form 22) at the close of the month.

Each collector will please acknowledge receipt of this letter.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2032.)

Certificates of deposit (Forms 49, 51B, and 79, and Record 9).

Instructions relative to the manner of accounting for collections, etc., under act of October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 26, 1914.

To collectors of internal revenue:

In view of the provisions of the act of October 22, 1914, "An act to increase the internal revenue, and for other purposes," the following instructions are issued relative to the manner of accounting for collections made under said act:

On the daily deposit slips and certificates of deposit such collections will be included in the "ordinary" collections and accounted for on Form 49 in column 5, "Ordinary collections."

All taxes imposed by said act which are collectible by assessment will be assessed on the regular lists or a special bankers' list, and will be accounted for on Form 51B in the statement of "Regular lists." The stamps for special taxes payable by stamps will be included in the statement of special-tax stamps, fermented-liquor stamps, at the increased rate in that of fermented-liquor stamps; documentary and proprietary stamps, Schedules A and B, in a single statement on the line below that for "Mixed flour"; and all wine stamps in a single statement on the second line below that for "Mixed flour."

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On Form 79 documentary and proprietary stamps will be accounted for in the first column to the right of that for "mixed flour stamps," and wine stamps in the second column to the right.

The discount of one (1) per cent allowed on the sale of documentary and proprietary stamps, Schedules A and B, in quantities of not less than $100 of face value, as provided for in section 22 of said act, will be entered on Form 51B in column 5, and on Form 79 on line 8.

The credit authorized by S. Mim. 1094, dated October 23, 1914, amounting to 25 cents per barrel on "Emergency tax" stamps for fermented liquor, invoiced and receipted for at the rate of $1.75 per barrel, will be entered on Form 51B in column 5, and on Form 79 on line 8.

In Record 9 collections on account of sales of documentary and proprietary stamps will be entered in the first column to the right of that for "Mixed flour," and of wine stamps in the second column.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2033.)

Internal-revenue act of October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 26, 1914.

The following act, entitled "An act to increase the internal revenue, and for other purposes," approved October 22, 1914, is published for the information of internal-revenue officers and others concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

[PUBLIC—No. 217—63D CONGRESS.—H. R. 18891.]

An Act To increase the internal revenue, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be levied, collected, and paid in lieu of the tax of $1 now imposed by law, a tax of $1.50 on all beer, lager beer, ale, porter, and other similar fermented liquor, brewed or manufactured and sold, or stored in warehouse, or removed for consumption or sale, within the United States, by whatever name such liquors may be called, for every barrel containing not more than thirty-one gallons; and at a like rate for any other quantity or for the fractional parts of a barrel authorized and defined by law. And section thirty-three hundred and thirty-nine of the Revised Statutes is hereby amended accordingly: *Provided*, That the additional tax imposed in this section on all fermented liquors stored in warehouse to

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which a stamp has been affixed shall be assessed and collected in the manner now provided by law for the collection of taxes not paid by stamp: *Provided further*, That until appropriate stamps are prepared and furnished, the stamps heretofore used to denote the payment of the internal-revenue tax on fermented liquor may be stamped or imprinted with a suitable device to denote the new rate of tax herein imposed, and shall be affixed to all packages containing such liquors on which the tax imposed by this Act is paid. Any person having possession of unaffixed stamps heretofore issued for the payment of the tax on fermented liquors shall present the same to the collector of the district, who shall receive them at the price paid for such stamps by the purchaser and issue in lieu thereof new or imprinted stamps at the rate provided in this Act.

SEC. 2. That upon all still wines, domestic and imported, when sold or offered for sale or consumption, there shall be levied and collected taxes as follows: On each bottle containing one-fourth pint or less, one-fourth cent; on each bottle containing more than one-fourth pint and not more than one-half pint, one-half cent; on each bottle containing more than one-half pint and not more than one pint, 1 cent; and on each bottle containing more than one pint and not more than one quart, 2 cents; and on still wines in all other containers, not herein specially provided for, the tax shall be at the rate of 8 cents per gallon.

That upon all domestic and imported champagne and other sparkling wines, and upon all artificially carbonated wines when sold or offered for sale or consumption, there shall be levied and collected taxes as follows: Upon each bottle containing one-half pint or less, 5 cents; on each bottle containing more than one-half pint and not more than one pint, 10 cents; on each bottle containing more than one pint and not more than one quart, 20 cents; and on other all containers at the rate of 20 cents per quart; and on all liqueurs, cordials, or similar compounds, domestic and imported, by whatever name sold or offered for sale, there shall be levied and collected a tax on each bottle containing not more than one-half pint, 1½ cents; more than one-half pint and not more than one pint, 3 cents; more than one pint and not more than one quart, 6 cents; and on larger containers a tax at the rate of 24 cents per gallon.

All of the taxes imposed in the preceding paragraphs of this section shall be paid by stamps to be affixed to each bottle or container in which such still wines, champagne wines, carbonated wines, liqueurs, or cordials, or similar compounds are sold or offered for sale: *Provided*, That when such still wines, champagne wines, carbonated wines, liqueurs, cordials, or similar compounds, taxable under the provisions of this section, are sold or delivered by the producer, importer, or dealer in wholesale quantities to other dealers, including rectifiers, manufacturing chemists, and druggists, the dealer receiving and selling, or offering the same for sale or consumption to any person other than a dealer, shall affix thereto the stamps hereinbefore prescribed: *And provided further*, That the stamp tax herein imposed shall not be collected on any still wine used by any rectifier, manufacturing chemist, or druggist in the manufacture of any liqueur, cordial, or compound subject to any internal-revenue tax imposed by this Act.

The Commissioner of Internal Revenue shall cause to be prepared suitable and special stamps denoting the tax herein imposed, to be affixed and canceled in such manner as he, with the approval of the Secretary of the Treasury, may prescribe; and in the absence of such stamps from any bottle or container containing wine, liqueur, cordial, or compound taxable under the provisions of this section, sold or offered for sale or consumption, shall be prima facie evidence that the tax thereon has not been paid, and all such wines, liqueurs, cordials, or compounds shall be forfeited to the United States.

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There shall be levied and assessed against the maker or producer of all wines fortified under the provisions and conforming to the requirements of the sections of the tariff Act of October first, eighteen hundred and ninety, relating to the fortification of pure sweet wines, as amended, and as further amended by this Act, a tax of 55 cents on each taxable gallon of grape brandy or wine spirits used by him in the fortification of such wines: *Provided, however*, That the maker or producer of such fortified wines shall, under regulations and suitable bonds, to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, have assessed against him monthly the said tax of 55 cents on each taxable gallon of grape brandy or wine spirits used by him during the preceding month, which assessment shall be paid within ninety days from the date of notice thereof: *Provided further*, That nothing herein contained shall be construed as exempting any still wines, cordials, liqueurs, or similar compounds from the payment of any stamp tax provided for in this section.

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to make all necessary regulations to make effective the provisions of this section.

That sections forty-two, forty-three, forty-five, forty-six, and forty-nine of the Act of October first, eighteen hundred and ninety, as amended by section sixty-eight of an Act approved August twenty-eighth, eighteen hundred and ninety-four, and by an Act approved June seventh, nineteen hundred and six, are further amended to read as follows:

"SEC. 42. That any producer of pure sweet wines may use in the preparation of such sweet wines, under such regulations, and after the filing of such notices and bonds, together with the keeping of such records and the rendition of such reports as to materials and products as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, wine spirits produced by any duly authorized distiller, and the Commissioner of Internal Revenue in determining the liability of any distiller of wine spirits to assessment under secton thirty-three hundred and nine of the Revised Statutes, is authorized to allow such distiller credit in his computations for the wine spirits withdrawn to be used in fortifying sweet wines under this Act: *Provided*, That such wine containing after fortification more than twenty-four per centum of alcohol, as defined by section thirty-two hundred and forty-nine of the Revised Statutes, shall be forfeited to the United States.

"SEC. 43. That the wine spirits mentioned in section forty-two of this Act is the product resulting from the distillation of fermented grape juice, to which water may have been added prior to, during, or after fermentation, for the sole purpose of facilitating the fermentation and economical distillation thereof, and shall be held to include the product from grapes or their residues commonly known as grape brandy, and shall include commercial grape brandy which may have been colored with burnt sugar or caramel; and the pure sweet wine which may be fortified with wine spirits under the provisions of this Act is fermented or partially fermented grape juice only, with the usual cellar treatment, and shall contain no other substance whatever introduced before, at the time of, or after fermentation, except as herein expressly provided: *Provided*, That the addition of pure boiled or condensed grape must or pure crystallized cane or beet sugar, or pure dextrose sugar or water, or any or all of them, to the pure grape juice before fermentation, or to the fermented product of such grape juice, or to both, prior to the fortification provided in this Act, either for the purpose of perfecting sweet wines according to commercial standards or for mechanical purposes, shall not be excluded by the definition of pure sweet wine

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aforesaid: *Provided, however*, That the cane or beet sugar, or pure dextrose sugar so used shall not be in excess of eleven per centum of the weight of the wine to be fortified under this Act: *And provided further*, That the addition of water herein authorized shall be under such regulations and limitations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe: *Provided, however*, That records kept in accordance with such regulations as to the percentage of saccharine, acid, alcoholic, and added water content of the wine offered for fortification shall be open to inspection by any official of the Department of Agriculture thereto duly authorized by the Secretary of Agriculture; but in no case shall such wines to which water has been added be eligible for fortification under the provisions of this Act, where the same, after fermentation and before fortification, have an alcoholic strength of less than five per centum of their volume.

"SEC. 45. That under such regulations and official supervision, and upon the execution of such entries and the giving of such bonds, bills of lading, and other security as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, any producer of pure sweet wines as defined by this Act may withdraw wine spirits from any special bonded warehouse in original packages or from any registered distillery in any quantity not less than eighty wine gallons, and may use so much of the same as may be required by him under such regulations, and after the filing of such notices and bonds and the keeping of such records and the rendition of such reports as to materials and products and the disposition of the same as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, in fortifying the pure sweet wines made by him, and for no other purpose, in accordance with the foregoing limitations and provisions; and the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized whenever he shall deem it to be necessary for the prevention of violations of this law to prescribe that wine spirits withdrawn under this section shall not be used to fortify wines except at a certain distance prescribed by him from any distillery, rectifying house, winery, or other establishment used for producing or storing distilled spirits, or for making or storing wines other than wines which are so fortified, and that in the building in which such fortification of wines is practiced no wines or spirits other than those permitted by this regulation shall be stored in any room or part of the building in which fortification of wines is practiced. The use of wine spirits for the fortification of sweet wines under this Act shall be under the immediate supervision of an officer of internal revenue, who shall make returns describing the kinds and quantities of wine so fortified, and shall affix such stamps and seals to the packages containing such wines as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury; and the Commissioner of Internal Revenue shall provide by regulations the time within which wines so fortified with the wine spirits so withdrawn may be subject to inspection, and for final accounting for the use of such wine spirits and for rewarehousing or for payment of the tax on any portion of such wine spirits which remain not used in fortifying pure sweet wines.

"SEC. 46. That wine spirits may be withdrawn from special bonded warehouses at the instance of any person desiring to use the same to fortify any wines, in accordance with commercial demands of foreign markets, when such wines are intended for exportation, without the payment of tax on the amount of wine spirits used in such fortification, under such regulations, and after making such entries, and executing and filing with the collector of the district from which the removal is to be made such bonds and bills of lading, and giving such

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other additional security to prevent the use of such wine spirits free of tax otherwise than in the fortification of wine intended for exportation and for the due exportation of the wine so fortified, as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury; and all of the provisions of law governing the exportation of distilled spirits free of tax, so far as applicable, shall apply to the withdrawal and use of wine spirits and the exportation of the same in accordance with this section; and the Commissioner of Internal Revenue is authorized, subject to the approval of the Secretary of the Treasury, to prescribe that wine spirits intended for the fortification of wines under this section shall not be introduced into such wines except under the immediate supervision of an officer of internal revenue, who shall make returns describing the kinds and quantities of wine so fortified, and shall affix such stamps and seals to the packages containing such wines as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Whenever transportation of such wine is to be effected by land carriage the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe such regulations as to sealing packages and vehicles containing the same, and as to the supervision of transportation from the point of departure, which point shall be determined as the place where such wine spirits may be introduced into such wines to the point of destination as may be necessary to insure the due exportation of such fortified wines: *Provided*, That where, in accordance with regulations of the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, wines fortified under the provisions of this Act with brandy taxable at 55 cents per proof gallon are exported directly from the winery where fortified, there shall be allowed an abatement or refund of tax equivalent to 55 cents per gallon on each proof gallon of wine spirits contained in such wine at the time of exportation, which amount of wine spirits shall be ascertained by the Commissioner of Internal Revenue under regulations approved by the Secretary of the Treasury: *Provided*, That such wine spirits on which abatement or refund of tax is allowed shall not exceed the total amount of alcohol in such wine over and above fourteen per centum thereof.

"SEC. 49. That wine spirits used in fortifying wines may be recovered from such wines only on the premises of a duly authorized grape-brandy distiller, and for the purpose of such recovery wine so fortified may be received as material on the premises of such a distiller, on a special permit of the collector of internal revenue in whose district the distillery is located; and the distiller will be held to pay the tax on the product from such wines as will include both the alcoholic strength therein produced by the fermentation of the grape juice and that obtained from the added distilled wine spirits: *Provided*, That when application for such special permit for redistillation shall be made by the producer of any wines fortified with brandy subject to the tax of 55 cents per proof gallon, before such wine shall have been moved from the premises of the winery where fortified and the redistillation is had under regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, an abatement or refund of the tax assessed against said producer shall be allowed equivalent to 55 cents per proof gallon of brandy contained in said spirits at the time of redistillation, which amount of brandy shall be ascertained by the Commissioner of Internal Revenue, under regulations approved by the Secretary of the Treasury, and wine spirits so recovered may be used in the manner provided by law for the fortification of other wine: *Provided*, That such wine spirits on which abatement or refund of tax is allowed shall not exceed the total amount of alcohol in such wine over and above fourteen per centum thereof."

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That section three and section six of the Act of June seventh, nineteen hundred and six, amending the laws relating to the fortification of pure sweet wines, are hereby amended to read as follows:

"SEC. 3. That the Commissioner of Internal Revenue is hereby authorized to assign at each winery where wines are to be fortified such number of gaugers or storekeeper gaugers, in the capacity of gaugers, for special duties as may be necessary for the proper supervision of the making and fortifying of such wines, and the compensation of such officers shall not exceed $5 per diem while so assigned, together with their actual and necessary traveling expenses, and also a reasonable allowance for their board bills, to be fixed by the Commissioner of Internal Revenue, but not to exceed $2 per diem for said board bills. That bonds hereafter given under the provisions of the aforesaid Act of October first, eighteen hundred and ninety, as amended, shall be conditioned for the payment of the tax on all brandy removed thereunder and not used and accounted for within the time and in the manner required by law and regulations, and for the payment of all taxes imposed on the brandy so withdrawn and used for fortifications; and the said bonds shall contain such other conditions as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation prescribe.

"SEC. 6. That any person who by any process recovers from wines fortified under the provisions of the aforesaid Act approved October first, eighteen hundred and ninety, as amendments thereto, any brandy or wine spirits used in the manufacture or fortification of said wine, otherwise than is provided for in said Act and its amendments, or who shall rectify, mix, or compound with distilled spirits or other materials, except as provided in this Act, such grape brandy, fortified wines or wine spirits unlawfully recovered therefrom, shall, on conviction, be punished for each such offense by a fine of not less than $200 nor more than $1,000. But the provisions of this section and the provisions of section thirty-two hundred and forty-four of the Revised Statutes of the United States, as amended, relating to rectification, or other internal revenue laws of the United States, shall not be held to apply to or prohibit the mixing or blending of pure sweet wines fortified under the provisions of this Act with each other or with other wines: *Provided*, That the pure sweet wines fortified under the provisions of this Act may be used in the manufacture of cordials, liqueurs, and similar compounds on which an internal revenue tax of 24 cents a gallon is imposed, and otherwise the provision of section thirty-two hundred and forty-four of the Revised Statutes of the United States shall remain in full force and effect."

SPECIAL TAXES.

SEC. 3. That on and after November first, nineteen hundred and fourteen, special taxes shall be, and hereby are, imposed annually as follows, that is to say:

First. Bankers shall pay $1 for each $1,000 of capital used or employed, and in estimating capital surplus and undivided profits shall be included. The amount of such annual tax shall in all cases be computed on the basis of the capital, surplus, and undivided profits for the preceding fiscal year. Every person, firm, or company, and every incorporated or other bank, having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or sale, shall be a banker under this Act: *Provided*, That any postal savings bank, or savings bank having no capital stock,

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and whose business is confined to receiving deposits and loaning or investing the same for the benefit of its depositors, and which does no other business of banking, shall not be subject to this tax.

Second. Brokers shall pay $30. Every person, firm, or company, whose business it is to negotiate purchases or sales of stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, or other securities, for themselves or others, shall be regarded as a broker: *Provided*, That any person having paid the special tax as a banker shall not be required to pay the special tax as a broker.

Third. Pawnbrokers shall pay $50. Every person, firm, or company whose business or occupation it is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatever, as security for the repayment of money loaned thereon, shall be deemed a pawnbroker.

Fourth. Commercial brokers shall pay $20. Every person, firm, or company whose business it is as a broker to negotiate sales or purchases of goods, wares, produce, or merchandise, or to negotiate freights and other business for the owners of vessels, or for the shippers or consignors or consignees of freight carried by vessels, shall be regarded as a commercial broker under this Act.

Fifth. Custom-house brokers shall pay $10. Every person, firm, or company whose occupation it is, as the agent of others, to arrange entries and other custom-house papers, or transact business at any port of entry relating to the importation or exportation of goods, wares, or merchandise, shall be regarded as a custom-house broker.

Sixth. Proprietors of theaters, museums, and concert halls, where a charge for admission is made, having a seating capacity of not more than two hundred and fifty, shall pay $25; having a seating capacity of more than two hundred and fifty and not exceeding five hundred, shall pay $50; having a seating capacity exceeding five hundred and not exceeding eight hundred, shall pay $75; having a seating capacity of more than eight hundred, shall pay $100. Every edifice used for the purpose of dramatic or operatic or other representations, plays, or performances, for admission to which entrance money is received, not including halls or armories rented or used occasionally for concerts or theatrical representations, shall be regarded as a theater: *Provided*, That whenever any such edifice is under lease at the passage of this Act, the tax shall be paid by the lessee, unless otherwise stipulated between the parties to said lease.

Seventh. The proprietor or proprietors of circuses shall pay $100. Every building, space, tent, or area where feats of horsemanship or acrobatic sports or theatrical performances not otherwise provided for in this Act are exhibited shall be regarded as a circus: *Provided*, That no special tax paid in one State, Territory, or the District of Columbia shall exempt exhibitions from the tax in another State, Territory, or the District of Columbia, and but one special tax shall be imposed for exhibitions within any one State, Territory, or District.

Eighth. Proprietors or agents of all other public exhibitions or shows for money not enumerated in this section shall pay $10: *Provided*, That a special tax paid in one State, Territory, or the District of Columbia shall not exempt exhibitions from the tax in another State, Territory, or the District of Columbia, and but one special tax shall be required for exhibitions within any one State, Territory, or the District of Columbia: *Provided further*, That this paragraph shall not apply to Chautauquas, lecture lyceums, agricultural or industrial fairs, or exhibitions held under the auspices of religious or charitable associations.

Ninth. Proprietors of bowling alleys and billiard rooms shall pay $5 for each alley or table. Every building or place where bowls are thrown or where

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games of billiards or pool are played, and that are open to the public with or without price, shall be regarded as a bowling alley or a billiard room, respectively.

Tenth. Commission merchants shall pay $20. Every person, firm, or company whose business or occupation it is to receive into his or its possession any goods, wares, or merchandise to sell the same on commission shall be regarded as a commission merchant: *Provided*, That any person having paid the special tax as a commercial broker shall not be required to pay the special tax as a commission merchant: *Provided further*, That this provision shall not apply to commission houses run upon a cooperative plan.

TOBACCO DEALERS AND MANUFACTURERS.

SEC. 4. That on and after November first, nineteen hundred and fourteen, special taxes on tobacco dealers and manufacturers shall be and hereby are imposed annually as follows, the amount of such annual taxes to be computed in all cases on the basis of the annual sales for the preceding fiscal year:

Dealers in leaf tobacco whose annual sales or transfers do not exceed fifty thousand pounds shall each pay $6. Dealers in leaf tobacco whose annual sales or transfers exceed fifty thousand and do not exceed one hundred thousand pounds shall pay $12, and if their annual sales or transfers exceed one hundred thousand pounds shall pay $24: *Provided*, That dealers in leaf tobacco whose annual sales or transfers do not exceed one thousand pounds shall be exempt from the tax herein imposed on dealers in leaf tobacco.

Dealers in tobacco, not specially provided for in this section, whose annual receipts from the sale of tobacco exceed $200, shall each pay $4.80 for each store, shop, or other place in which tobacco in any form is sold.

Every person whose business it is to sell, or offer for sale, manufactured tobacco, snuff, cigars, or cigarettes shall be regarded as a dealer in tobacco: *Provided*, That no manufacturer of tobacco, snuff, cigars, or cigarettes shall be required to pay a special tax as a dealer in manufactured tobacco, snuff, cigars, or cigarettes for selling his own products at the place of manufacture.

Manufacturers of tobacco whose annual sales do not exceed one hundred thousand pounds shall each pay $6.

Manufacturers of tobacco whose annual sales exceed one hundred thousand and do not exceed two hundred thousand pounds shall each pay $12.

Manufacturers of tobacco whose annual sales exceed two hundred thousand and do not exceed four hundred thousand pounds shall each pay $24.

Manufacturers of tobacco whose annual sales exceed four hundred thousand and do not exceed one million pounds shall each pay $60.

Manufacturers of tobacco whose annual sales exceed one million and do not exceed five million pounds shall each pay $300.

Manufacturers of tobacco whose annual sales exceed five million and do not exceed ten million pounds shall each pay $600.

Manufacturers of tobacco whose annual sales exceed ten million and do not exceed twenty million pounds shall each pay $1,200.

Manufacturers of tobacco whose annual sales exceed twenty million pounds shall each pay $2,496.

Manufacturers of cigars whose annual sales do not exceed one hundred thousand cigars shall each pay $3.

Manufacturers of cigars whose annual sales exceed one hundred thousand and do not exceed two hundred thousand cigars shall each pay $6.

Manufacturers of cigars whose annual sales exceed two hundred thousand and do not exceed four hundred thousand cigars shall each pay $12.

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Manufacturers of cigars whose annual sales exceed four hundred thousand and do not exceed one million cigars shall each pay $90.

Manufacturers of cigars whose annual sales exceed one million and do not exceed five million cigars shall each pay $150.

Manufacturers of cigars whose annual sales exceed five million and do not exceed twenty million cigars shall each pay $600.

Manufacturers of cigars whose annual sales exceed twenty million and do not exceed forty million cigars shall each pay $1,200.

Manufacturers of cigars whose annual sales exceed forty million cigars shall each pay $2,496.

Manufacturers of cigarettes whose annual sales do not exceed one million cigarettes shall each pay $12.

Manufacturers of cigarettes whose annual sales exceed one million and do not exceed two million cigarettes shall each pay $24.

Manufacturers of cigarettes whose annual sales exceed two million and do not exceed five million cigarettes shall each pay $60.

Manufacturers of cigarettes whose annual sales exceed five million and do not exceed ten million cigarettes shall each pay $120.

Manufacturers of cigarettes whose annual sales exceed ten million and do not exceed fifty million cigarettes shall each pay $600.

Manufacturers of cigarettes whose annual sales exceed fifty million and do not exceed one hundred million cigarettes shall each pay $1,200.

Manufacturers of cigarettes whose annual sales exceed one hundred million cigarettes shall each pay $2,496.

In arriving at the amount of license tax to be paid hereunder, and in the levy and collection of such tax, each person, firm, or corporation engaged in the manufacture of cigars, cigarettes (including little cigars), or tobacco shall be considered and deemed a single manufacturer.

And every person who carries on any business or occupation for which special taxes are imposed by this Act, without having paid the special tax herein provided, shall, besides being liable to the payment of such special tax, be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than $500, or be imprisoned not more than six months, or both, at the discretion of the court: *Provided*, That the special taxes imposed by this Act and payable during the special tax year ending June thirtieth, nineteen hundred and sixteen, shall be collected and paid proportionately for the period during which such taxes shall remain in force during said year.

ADHESIVE STAMPS.

SEC. 5. That on and after the first day of December, nineteen hundred and fourteen, there shall be levied, collected, and paid, for and in respect of the several bonds, debentures, or certificates of stock and of indebtedness, and other documents, instruments, matters, and things mentioned and described in Schedule A of this Act, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, shall be written or printed by any person or persons, or party who shall make, sign, or issue the same, or for whose use or benefit the same shall be made, signed, or issued, the several taxes or sums of money set down in figures against the same, respectively, or otherwise specified or set forth in the said schedule.

And there shall also be levied, collected, and paid, for and in respect to the preparations, matters, and things mentioned and described in Schedule B of this Act, manufactured, sold, or removed for sale, the several taxes or sums of

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money set down in words or figures against the same, respectively, or otherwise specified or set forth in Schedule B of this Act.

SEC. 6. That if any person or persons shall make, sign, or issue, or cause to be made, signed, or issued, any instrument, document, or paper of any kind or description whatsoever, without the same being duly stamped for denoting the tax hereby imposed thereon, or without having thereupon an adhesive stamp to denote said tax, such person or persons shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than $100, at the discretion of the court.

SEC. 7. That if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any stamp, die, plate, or other instrument, or any part of any stamp, die, plate, or other instrument, which shall have been provided, or may hereafter be provided, made, or used in pursuance of this Act, or shall forge, counterfeit, or resemble, or cause or procure to be forged, counterfeited, or resembled, the impression, or any part of the impression, of any such stamp, die, plate, or other instrument, as aforesaid, upon any vellum, parchment, or paper, or shall stamp or mark, or cause or procure to be stamped or marked, any vellum, parchment, or paper with any such forged or counterfeited stamp, die, plate, or other instrument, or part of any stamp, die, plate, or other instrument, as aforesaid, with intent to defraud the United States of any of the taxes hereby imposed, or any part thereof; or if any person shall utter, or sell, or expose for sale, any vellum, parchment, paper, article, or thing having thereupon the impression of any such counterfeited stamp, die, plate, or other instrument, or any part of any stamp, die, plate, or other instrument, or any such forged, counterfeited, or resembled impression, or part of impression, as aforesaid, knowing the same to be forged, counterfeited, or resembled; or if any person shall knowingly use or permit the use of any stamp, die, plate, or other instrument, which shall have been so provided, made, or used as aforesaid, with intent to defraud the United States; or if any person shall fraudulently cut, tear, or remove, or cause or procure to be cut, torn, or removed, the impression of any stamp, die, plate, or other instrument which shall have been provided, made, or used in pursuance of this Act from any vellum, parchment, or paper, or any instrument or writing charged or chargeable with any of the taxes imposed by law; or if any person shall fraudulently use, join, fix, or place, or cause to be used, joined, fixed, or placed, to, with, or upon any vellum, parchment, paper, or any instrument or writing charged or chargeable with any of the taxes hereby imposed, any adhesive stamp, or the impression of any stamp, die, plate, or other instrument, which shall have been provided, made, or used in pursuance of law, and which shall have been cut, torn, or removed from any other vellum, parchment, or paper, or any instrument or writing charged or chargeable with any of the taxes imposed by law; or if any person shall willfully remove or cause to be removed, alter or cause to be altered, the canceling or defacing marks of any adhesive stamp with intent to use the same, or to cause the use of the same, after it shall have been once used, or shall knowingly or willfully sell or buy such washed or restored stamp, or offer the same for sale, or give or expose the same to any person for use, or knowingly use the same, or prepare the same with intent for the further use thereof; or if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any washed, restored, or altered stamp which has been removed from any vellum, parchment, paper, instrument, or writing, then, and in every such case, every person so offending, and every person knowingly and willfully aiding, abetting, or assisting in committing any such offenses as aforesaid shall be seemed guilty of a misdemeanor, and, upon conviction thereof, shall forfeit the said counterfeit stamps and the

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articles upon which they are placed, and shall be punished by fine not exceeding $1,000, or by imprisonment and confinement at hard labor not exceeding five years, or both, at the discretion of the court.

SEC. 8. That in any and all cases where an adhesive stamp shall be used for denoting any tax imposed by this Act, except as hereinafter provided, the person using or affixing the same shall write or stamp thereupon the initials of his name and the date upon which the same shall be attached or used, so that the same may not again be used. And if any person shall fraudulently make use of an adhesive stamp to denote any tax imposed by this Act without so effectually canceling and obliterating such stamp, except as before mentioned, he, she, or they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $500, or be imprisoned not more than six months, or both, at the discretion of the court: *Provided*, That instead of cancellation by initials and date, the stamps on the articles enumerated in Schedule B shall be so affixed on the box, bottle, or package that in opening the same, or using the contents thereof, the said stamp shall be effectually destroyed; and in default thereof the party making default shall be liable to the same penalty imposed for neglect to affix said stamp as hereinbefore prescribed in this Act.

SEC. 9. That if any person or persons shall make, sign, or issue, or cause to be made, signed, or issued, or shall accept or pay, or cause to be accepted or paid, with design to evade the payment of any stamp tax, any promissory note liable to any of the taxes imposed by this Act, without the same being duly stamped, or having thereupon an adhesive stamp for denoting the tax hereby charged thereon, he, she, or they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $200, at the discretion of the court.

SEC. 10. That the collectors of the several districts are hereby authorized and required to furnish to any assistant treasurer of the United States or designated depositary thereof, or any postmaster located in their collection districts, respectively, a suitable quantity of adhesive stamps, without prepayment therefor, and may in advance require of any designated depositary, assistant treasurer of the United States, or postmaster a bond, with sufficient sureties, to an amount equal to the value of the adhesive stamps which may be placed in his hands and remain unaccounted for, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of, and for the payment monthly of all quantities or amounts sold or not remaining on hand. And it shall be the duty of such collectors to supply their deputies with, or sell to other parties within their respective districts who may make application therefor, adhesive stamps, upon the same terms allowed by law or under the regulations of the Commissioner of Internal Revenue, who is hereby authorized to make such other regulations, not inconsistent herewith, for the security of the United States and the better accommodation of the public, in relation to the matters hereinbefore mentioned, as he may judge necessary and expedient. And the Secretary of the Treasury may from time to time make such regulations as he may find necessary to insure the safe-keeping or prevent the illegal use of all such adhesive stamps.

SEC. 11. That any person or persons who shall register, issue, sell, or transfer, or who shall cause to be issued, registered, sold, or transferred, any instrument, document, or paper of any kind or description whatsoever mentioned in Schedule A of this Act, without the same being duly stamped, or having thereupon an adhesive stamp for denoting the tax chargeable thereon, and canceled in the manner required by law, with intent to evade the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $50, or by imprisonment not exceeding six

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months, or both, in the discretion of the court: *Provided*, That hereafter, in all cases where the party has not affixed to any instrument the stamp required by law thereon at the time of issuing, selling, or transferring the said bonds, debentures, or certificates of stock or of indebtedness, and he or they, or any party having an interest therein, shall be subsequently desirous of affixing such stamp to said instrument, or, if said instrument be lost, to a copy thereof, he or they shall appear before the collector of internal revenue of the proper district, who shall, upon the payment of the price of the proper stamp required by law, and of a penalty of $10, and, where the whole amount of the tax denoted by the stamp required shall exceed the sum of $50, on payment also of interest, at the rate of six per centum, on said tax from the day on which such stamp ought to have been affixed, affix the proper stamp to such bond, debenture, certificate of stock or of indebtedness or copy, and note upon the margin thereof the date of his so doing, and the fact that such penalty has been paid; and the same shall thereupon be deemed and held to be as valid, to all intents and purposes, as if stamped when made or issued: *And provided further*, That where it shall appear to said collector, upon oath or otherwise, to his satisfaction, that any such instrument has not been duly stamped, at the time of making or issuing the same, by reason of accident, mistake, inadvertence, or urgent necessity, and without any willful design to defraud the United States of the stamp, or to evade or delay the payment thereof, then and in such case, if such instrument, or, if the original be lost, a copy thereof, duly certified by the officer having charge of any records in which such original is required to be recorded, or otherwise duly proven to the satisfaction of the collector, shall, within twelve calendar months after the making or issuing thereof, be brought to the said collector of internal revenue to be stamped, and the stamp tax chargeable thereon shall be paid, it shall be lawful for the said collector to remit the penalty aforesaid and to cause such instrument to be duly stamped. And when the original instrument, or a certified or duly proven copy thereof, as aforesaid, duly stamped so as to entitle the same to be recorded, shall be presented to the clerk, register, recorder, or other officer having charge of the original record, it shall be lawful for such officer, upon the payment of the fee legally chargeable for the recording thereof, to make a new record thereof, or to note upon the original record the fact that the error or omission in the stamping of said original instrument has been corrected pursuant to law; and the original instrument or such certified copy, or the record thereof, may be used in all courts and places in the same manner and with like effect as if the instrument had been originally stamped: *And provided further*, That in all cases where the party has not affixed the stamp required by law upon any such instrument issued, registered, sold, or transferred at a time when and at a place where no collection district was established, it shall be lawful for him or them, or any party having an interest therein, to affix the proper stamp thereto, or, if the original be lost, to a copy thereof. But no right acquired in good faith before the stamping of such instrument, or copy thereof, as herein provided, if such record be required by law, shall in any manner be affected by such stamping as aforesaid.

SEC. 12. That hereafter no instrument, paper, or document required by law to be stamped, which has been signed or issued without being duly stamped, or with a deficient stamp, nor any copy thereof, shall be recorded until a legal stamp or stamps, denoting the amount of tax, shall have been affixed thereto, as prescribed by law: *Provided*, That any bond, debenture, certificate of stock, or certificate of indebtedness issued in any foreign country shall pay the same tax as is required by law on similar instruments when issued, sold, or transferred in the United States; and the party to whom the same is issued, or by whom it

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is sold or transferred, shall, before selling or transferring the same, affix thereon the stamp or stamps indicating the tax required.

SEC. 13. That is shall not be lawful to record or register any instrument, paper, or document required by law to be stamped unless a stamp or stamps of the proper amount shall have been affixed and canceled in the manner prescribed by law.

SEC. 14. That no instrument, paper, or document required by law to be stamped shall be deemed or held invalid and of no effect for the want of a particular kind or description of stamp designated for and denoting the tax charged on any such instrument, paper, or document, provided a legal documentary stamp or stamps denoting a tax of equal amount shall have been duly affixed and used thereon.

SEC. 15. That all bonds, debentures, or certificates of indebtedness issued by the officers of the United States Government, or by the officers of any State, county, town, municipal corporation, or other corporation exercising the taxing power, shall be, and hereby are, exempt from the stamp taxes required by this Act: *Provided*, That it is the intent hereby to exempt from the stamp taxes imposed by this Act such State, county, town, or other municipal corporations in the exercise only of functions strictly belonging to them in their ordinary governmental, taxing, or municipal capacity: *Provided further*, That stock and bonds issued by cooperative building and loan associations, mutual ditch or irrigating companies, and building and loan associations or companies that make loans only to their shareholders, shall be exempt from the tax herein provided.

SEC. 16. That all the provisions of this Act relating to dies, stamps, adhesive stamps, and stamp taxes shall extend to and include (except where manifestly inapplicable) all the articles or objects enumerated in Schedule B, subject to stamp taxes, and apply to the provisions in relation thereto.

SEC. 17. That on and after December first, nineteen hundred and fourteen, any person, firm, company, or corporation that shall make, prepare, and sell, or remove for consumption or sale, perfumery, cosmetics, preparations, compositions, articles, or things upon which a tax is imposed by this Act, as provided for in Schedule B, without affixing thereto an adhesive stamp or label denoting the tax before mentioned shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than $500, or be imprisoned not more than six months, or both, at the discretion of the court.

SEC. 18. That any manufacturer or maker of any of the articles for sale mentioned in Schedule B, after the same shall have been so made, and the particulars hereinbefore required as to stamps have been complied with, or any other person who shall take off, remove, or detach, or cause, or permit, or suffer to be taken off, or removed or detached, any stamp, or who shall use any stamp, or any wrapper or cover to which any stamp is affixed, to cover any other article or commodity than that originally contained in such wrapper or cover, with such stamp when first used, with the intent to evade the stamp duties, shall for every such article, respectively, in respect of which any such offense shall be committed, be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than $500, or be imprisoned not more than six months, or both, at the discretion of the court, and every such article or commodity as aforesaid shall also be forfeited.

SEC. 19. That any maker or manufacturer of any of the articles or commodities mentioned in Schedule B, as aforesaid, or any other person who shall sell, send out, remove, or deliver any article or commodity, manufactured as aforesaid, before the tax thereon shall have been fully paid by affixing thereon the proper stamp, as in this Act provided, or who shall hide or conceal, or

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cause to be hidden or concealed, or who shall remove or convey away, or deposit, or cause to be removed or conveyed away from or deposited in any place, any such article or commodity, to evade the tax chargeable thereon, or any part thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than $500, or be imprisoned not more than six months, or both, at the discretion of the court, together with the forfeiture of any such article or commodity: *Provided*, That articles upon which stamp taxes are required by this Act may, when intended for exportation, be manufactured and sold or removed without having stamps affixed thereto, and without being charged with tax as aforesaid; and every manufacturer or maker of any article as aforesaid, intended for exportation, shall give such bonds and be subject to such rules and regulations to protect the revenue against fraud as may be from time to time prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

SEC. 20. That every manufacturer or maker of any of the articles or commodities provided for in Schedule B, or his foreman, agent, or superintendent shall at the end of each and every month make, sign, and file with the collector of internal revenue for the district in which he resides a declaration in writing that no such article or commodity has, during such preceding month or time when the last declaration was made, been removed, or carried, or sent, or caused or suffered or known to have been removed, carried, or sent from the premises of such manufacturer or maker other than such as have been duly taken account of and charged with the stamp tax, on pain of such manufacturer or maker forfeiting for every refusal or neglect to make such declaration $100; and if any such manufacturer or maker, or his foreman, agent, or superintendent, shall make any false or untrue declaration, such manufacturer or maker, or foreman, agent, or superintendent making the same shall be deemed guilty of a misdemeanor, and upon conviction shall pay a fine of not more than $500, or be imprisoned not more than six months, or both, at the discretion of the court.

SEC. 21. That the stamp taxes prescribed in this Act on the articles provided for in Schedule B shall attach to all such articles and things sold or removed for sale thirty days after the approval of this Act. Every person, except as otherwise provided in this Act, who offers or exposes for sale any article or thing provided for in said Schedule B, whether the article so offered or exposed is of foreign manufacture and imported or of domestic manufacture, shall be deemed the manufacturer thereof, and shall be subject to all the taxes, liabilities, and penalties imposed by law for the sale of articles without the use of the proper stamp denoting the tax paid thereon; and all such articles of foreign manufacture shall, in addition to the import duty imposed on the same, be subject to the stamp tax prescribed in this Act: *Provided further*, That internal revenue stamps required by existing law on imported merchandise shall be affixed thereto and canceled at the expense of the owner or importer before the withdrawal of such merchandise for consumption, and the Secretary of the Treasury is authorized to make such rules and regulations as may be necessary for the affixing and canceling of such stamps, not inconsistent herewith.

SEC. 22. That the Commissioner of Internal Revenue shall cause to be prepared and distributed for the payment of the taxes prescribed in this Act suitable stamps denoting the tax on the document, article, or thing to which the same may be affixed, and he is authorized to prescribe such method for the cancellation of said stamps, as substitute for or in addition to the method provided in this Act, as he may deem expedient. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to

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procure any of the stamps provided for in this Act by contract whenever such stamps can not be speedily prepared by the Bureau of Engraving and Printing; but this authority shall expire on the first day of November, nineteen hundred and fifteen, except as to imprinted stamps furnished under contract, authorized by the Commissioner of Internal Revenue. That the adhesive stamps used in the payment of the tax levied in Schedules A and B of this Act shall be furnished for sale by the several collectors of internal revenue, who shall sell and deliver them at their face value to all persons applying for the same, except officers or employees of the Internal-Revenue Service: *Provided*, That such collectors may sell and deliver such stamps in quantities of not less than $100 of face value, with a discount of one per centum, except as otherwise provided in this Act.

SCHEDULE A.

STAMP TAXES.

Bonds, debentures, or certificates of indebtedness issued on and after the first day of December, nineteen hundred and fourteen, by any association, company, or corporation, on each $100 of face value or fraction thereof, 5 cents, and on each original issue, whether on organization or reorganization, of certificates of stock by any such association, company, or corporation, on each $100 of face value or fraction thereof, 5 cents, and on all sales, or agreements to sell, or memoranda of sales or deliveries or transfers of shares or certificates of stock in any association, company, or corporation, whether made upon or shown by the books of the association, company, or corporation, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale, whether entitling the holder in any manner to the benefit of such stock, or to secure the future payment of money or for the future transfer of any stock, on each $100 of face value or fraction thereof, 2 cents: *Provided*, That it is not intended by this Act to impose a tax upon an agreement evidencing a deposit of stock certificates as collateral security for money loaned thereon, which stock certificates are not actually sold, nor upon such stock certificates so deposited: *Provided further*, That in case of sale where the evidence of transfer is shown only by the books of the company the stamp shall be placed upon such books; and where the change of ownership is by transfer certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. And any person or persons liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person or persons, who shall make any such sale, or who shall in pursuance of any such sale deliver any such stock, or evidence of the sale of any such stock or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000, or be imprisoned not more than six months, or both, at the discretion of the court.

Upon each sale, agreement of sale, or agreement to sell, any products or merchandise at any exchange, or board of trade, or other similar place, either for present or future delivery, for each $100 in value of said sale or agreement of sale or agreement to sell, 1 cent, and for each additional $100 or fractional

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part thereof in excess of $100, 1 cent: *Provided*, That on every sale or agreement of sale or agreement to sell as aforesaid there shall be made and delivered by the seller to the buyer a bill, memorandum, agreement, or other evidence of such sale, agreement of sale, or agreement to sell, to which there shall be affixed a lawful stamp or stamps in value equal to the amount of the tax on such sale. And every such bill, memorandum, or other evidence of sale or agreement to sell shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers; and any person or persons liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person or persons, who shall make any such sale or agreement of sale, or agreement to sell, or who shall, in pursuance of any such sale, agreement of sale, or agreement to sell, deliver any such products or merchandise without a bill, memorandum, or other evidence thereof as herein required, or who shall deliver such bill, memorandum, or other evidence of sale, or agreement to sell, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000, or be imprisoned not more than six months, or both, at the discretion of the court.

That no bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell, in case of products or merchandise actually delivered at the time of sale or while in vessel, boat, or car, and actually in course of transportation, shall be subject to this tax, provided such bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell shall be accompanied by bills of lading or vouchers showing that the said products are actually in course of transportation as aforesaid.

Promissory notes, except bank notes issued for circulation, and for each renewal of the same, for a sum not exceeding $100, 2 cents; and for each additional $100 or fractional part thereof in excess of $100, 2 cents.

Express and freight: It shall be the duty of every railroad or steamboat company, carrier, express company, or corporation or person whose occupation is to act as such, to issue to the shipper or consignor, or his agent, or person from whom any goods are accepted for transportation where a charge exceeding 5 cents is made a bill of lading, manifest, or other evidence of receipt and forwarding for each shipment received for carriage and transportation, whether in bulk or in boxes, bales, packages, bundles, or not so inclosed or included; and such shipper, consignor, agent, or person shall duly attach and cancel, as is in this Act provided, to each of said bills of lading, manifests, or other memorandum, a stamp of the value of 1 cent: *Provided*, That a consignment of newspapers to any one point or to different points by the same train or conveyance when inclosed in one general bundle at the point of shipment shall be considered as one shipment, and, in lieu of a bill of lading therefor, the publisher of such newspaper shall file on or before the fifteenth day of each month with the collector of internal revenue for the district in which such newspaper is published a report under oath showing the number of such shipments during the preceding month to which report such publisher shall affix and cancel stamps equal in value to 1 cent for each shipment so reported: *Provided further*, That the report herein required shall not include shipments of newspapers delivered to points within the county in which the same are published. Any failure to issue such bill of lading, manifest, or other memorandum as herein provided, shall subject such railroad or steamboat company, carrier, express company, or corporation or person to a penalty of $50 for each offense.

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Telegraph and telephone messages: It shall be the duty of every person, firm, or corporation owning or operating any telegraph or telephone line or lines to make within thirty days after the expiration of each month a sworn statement to the collector of internal revenue in each of their respective districts, stating the number of dispatches, messages, or conversations originated at each of their respective exchanges, toll stations, or offices, and transmitted thence over their lines during the preceding month for which a charge of 15 cents or more was imposed, and for each of such messages or conversations the said person, firm, or corporation shall collect from the person paying for the message or conversation a tax of 1 cent in addition to the regular charges for the message or conversation, which tax the said person, firm, or corporation shall in turn pay to the said collector of internal revenue of their respective districts: *Provided*, That only one payment of said tax shall be required, notwithstanding the lines of one or more persons, firms, or corporations shall be used for the transmission of each of said messages or conversations: *Provided further*, That the messages or dispatches of the officers and employees of any telegraph or telephone company concerning the affairs and service of the company, and like messages or dispatches of the officials and employees of railroad companies sent over the wires on their respective railroads shall be exempt from this requirement: *And provided further*, That messages of officers and employees of the Government on official business shall be exempt from the taxes herein imposed upon telegraphic and telephonic messages.

Bond: For indemnifying any person or persons, firm, or corporation who shall have become bound or engaged as surety for the payment of any sum of money, or for the due execution or performance of the duties of any office or position, and to account for money received by virtue thereof, and all other bonds of any description, except such as may be required in legal proceedings, not otherwise provided for in this schedule, 50 cents.

Certificate of profits, or any certificate or memorandum showing an interest in the property or accumulations of any association, company, or corporation, and on all transfers thereof, on each $100 of face value or fraction thereof, 2 cents.

Certificate: Any certificate of damage, or otherwise, and all other certificates or documents issued by any port warden, marine surveyor, or other person acting as such, 25 cents.

Certificate of any description required by law not otherwise specified in this Act, 10 cents.

Contract: Broker's note, or memorandum of sale of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind or description issued by brokers or persons acting as such, for each note or memorandum of sale, not otherwise provided for in this Act, 10 cents.

Conveyance: Deed, instrument, or writing, whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance thereon, exceeds $100 and does not exceed $500, 50 cents; and for each additional $500 or fractional part thereof in excess of $500, 50 cents: *Provided*, That nothing contained in this paragraph shall be so construed as to impose a tax upon any instrument or writing given to secure a debt.

Entry of any goods, wares, or merchandise at any customhouse, either for consumption or warehousing, not exceeding $100 in value, 25 cents; exceeding $100 and not exceeding $500 in value, 50 cents; exceeding $500 in value, $1.

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Entry for the withdrawal of any goods or merchandise from customs bonded warehouse, 50 cents.

Insurance: Each policy of insurance or other instrument, by whatever name the same shall be called, by which insurance shall be made or renewed upon property of any description (including rents or profits), whether against peril by sea or on inland waters, or by fire or lightning, or other peril, made by any person, association, or corporation, upon the amount of premium charged, one-half of 1 cent on each dollar or fractional part thereof: *Provided*, That purely cooperative or mutual fire insurance companies or associations carried on by the members thereof solely for the protection of their own property and not for profit shall be exempted from the tax herein provided: *And provided further*, That policies of reinsurance shall be exempt from the tax herein imposed by this paragraph.

Each policy of insurance, or bond or obligation of the nature of indemnity for loss, damage, or liability issued, or executed, or renewed by any person, association, company, or corporation, transacting the business of fidelity, employer's liability, plate glass, steam boiler, burglary, elevator, automatic sprinkler, or other branch of insurance (except life, personal accident, and health insurance, and insurance described and taxed or exempted in the preceding paragraph and excepting also workmen's compensation insurance carried on by the members thereof solely for their own protection and not for profit), and each bond undertaking or recognizance, conditioned for the performance of the duties of any office or position, or for the doing or not doing of anything therein specified, or other obligation of the nature of indemnity, and each contract or obligation guaranteeing the validity or legality of bonds or other obligations issued by any State, county, municipal, or other public body or organization, or guaranteeing titles to real estate or mercantile credits executed or guaranteed by any liability, fidelity, guarantee, or surety company upon the amount of premium charged, one-half of 1 cent on each dollar or fractional part thereof: *Provided*, That policies of reinsurance shall be exempt from the tax herein imposed by this paragraph.

Passage ticket, for each passenger, sold in the United States for passage by any vessel to a foreign port or place, if costing not exceeding $30, $1; costing more than $30 and not exceeding $60, $3; costing more than $60, $5: *Provided*, That such passage tickets, costing $10 or less, shall be exempt from taxation.

Power of attorney or proxy for voting at any election for officers of any incorporated company or association, except religious, charitable, or literary societies, or public cemeteries, 10 cents.

Power of attorney to sell and convey real estate, or to rent or lease the same, to receive or collect rent, to sell or transfer any stock, bonds, scrip, or for the collection of any dividends or interest thereon, or to perform any and all other acts not hereinbefore specified, 25 cents: *Provided*, That no stamps shall be required upon any papers necessary to be used for the collection of claims from the United States for pensions, back pay, bounty, or for property lost in the military or naval service.

Protest: Upon the protest of every note, bill of exchange, acceptance, check or draft, or any marine protest, whether protested by a notary public or by any other officer who may be authorized by the law of any State or States to make such protest, 25 cents.

Every seat sold in a palace or parlor car and every berth sold in a sleeping car, 1 cent, to be paid by the company selling the same.

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SCHEDULE B.

Perfumery and cosmetics and other similar articles: For and upon every packet, box, bottle, pot, phial, or other inclosure containing any essence, extract, toilet water, cosmetic, vaseline, petrolatum, hair oil, pomade, hair dressing, hair restorative, hair dye, tooth wash, dentifrice, tooth paste, aromatic cachous, or any similar substance or article, by whatsoever name the same heretofore have been, now are, or may hereafter be called, known, or distinguished, used, or applied as perfumes or as cosmetics, and sold or removed for consumption and sale in the United States, where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall not exceed at the retail price or value the sum of 5 cents, one-eighth of 1 cent.

Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of 5 cents, and shall not exceed the retail price or value of 10 cents, two-eighths of 1 cent.

Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of 10 cents and shall not exceed the retail price or value of 15 cents, three-eighths of 1 cent.

Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of 15 cents and shall not exceed the retail price or value of 25 cents, five-eighths of 1 cent. And for each additional 25 cents of retail price or value or fractional part thereof in excess of 25 cents, five-eighths of 1 cent.

Chewing gum or substitutes therefor: For and upon each box, carton, jar, or other package containing chewing gum of not more than $1 of actual *retail* value, 4 cents; if exceeding $1 of retail value, for each additional *dollar* or fractional part thereof, 4 cents; under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

That all articles and preparations provided for in this schedule which are in the hands of manufacturers or of wholesale or retail dealers on and after December first, nineteen hundred and fourteen, shall be subject to the payment of the stamp taxes herein provided for, but it shall be deemed a compliance with this Act as to such articles on hand in the hands of wholesale or retail dealers as aforesaid who are not the manufacturers thereof to affix the proper adhesive tax stamp at the time the packet, box, bottle, pot, or phial, or other inclosure with its contents is sold at retail.

There shall be an allowance of drawback on articles mentioned in Schedule B of this Act on which any internal-revenue tax shall have been paid, equal in amount to the stamp tax paid thereon, and no more, when exported, to be paid by the warrant of the Secretary of the Treasury on the Treasurer of the United States, out of any money arising from internal taxes not otherwise appropriated: *Provided*, That no allowance of drawback shall be made for any such articles exported prior to the date this Act becomes effective. The evidence that any such tax has been paid as aforesaid shall be furnished to the satisfaction of the Commissioner of Internal Revenue by the person claiming the allowance of drawback, and the amount shall be ascertained under such regulations as shall be prescribed from time to time by said commissioner, with the approval of the Secretary of the Treasury.

SEC. 23. That all administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this Act, and every person, firm, company, corporation, or association liable to any tax imposed by this Act, or for the collec-

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tion thereof, shall keep such records and render, under oath, such statements and returns, and shall comply with such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe, and every such person, firm, company, corporation, or association who evades or attempts to evade any of the taxes imposed by this Act, or shall fail to truly account for and pay all taxes collected by them under this Act, or any regulations issued thereunder, shall be subject to a penalty of double the amount of the taxes evaded or attempted to be evaded or unlawfully withheld, to be assessed and collected as other penalties incurred under internal-revenue laws are assessed and collected; and for the expense connected with the assessment and collection of the taxes provided by this Act there is hereby appropriated $200,000, or so much thereof as may be required, out of any money in the Treasury not otherwise appropriated; $170,000 to be added to and made a part of the appropriations for "salaries and expenses of collection of internal revenue, nineteen hundred and fifteen; and $30,000 to the appropriation for paper for internal-revenue stamps, nineteen hundred and fifteen."

SEC. 24. That the provisions of this Act shall take effect on the day next succeeding the date of its passage, except where otherwise expressly provided: *Provided*, That on the day after the thirty-first day of December, nineteen hundred and fifteen, the taxes levied under this Act shall no longer be levied and collected, but all taxes arising or accruing before said date shall continue to be collectible under the terms of this Act: *Provided, however*, That on and after the first day of January, nineteen hundred and sixteen, the provisions of section thirty-three hundred and thirty-nine of the Revised Statutes, as amended by an Act approved April twelfth, nineteen hundred and two, imposing a tax on fermented liquors shall not be affected by any limitation as to the levying or collecting of the additional tax imposed by this Act on such fermented liquors, but shall then be in full force and effect on and after the said first day of January, nineteen hundred and sixteen. All stamps provided for in this Act unused after the aforesaid date shall be redeemed from the holder thereof, under such rules as the Secretary of the Treasury may prescribe.

Approved, October 22, 1914.

(T. D. 2034.)

Case and strip stamps.

Case and strip stamps for spirits bottled in bond to be in the immediate custody of the storekeeper-gauger.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 27, 1914.

To collectors of internal revenue:

It has been recently brought to the attention of this office that it has been the practice in some of the collection districts to furnish direct to distillers case stamps for spirits bottled in bond, the distiller in turn furnishing the stamps to the storekeeper-gauger assigned to the bottling house in quantities sufficient only to cover one day's bottling.

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These bottling stamps are in the nature of Government guaranty as to the quantity, age, and proof of the spirits. Dangerous opportunities for the misuse of these stamps are afforded by allowing them to remain in the custody of persons other than the officer in charge of the bottling warehouse, and article 25 of the regulations was specially designed to prevent such misuse. The distillers should, therefore, provide a suitable place in the bottling warehouse for the safekeeping, under lock and key, of these stamps by the storekeeper in charge.

Collectors in whose districts it has been the practice to furnish these stamps to the distillers direct will take the necessary steps to see that article 25 of Regulations No. 23 is strictly complied with, advising this office accordingly.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2035.)

Schedule of articles and occupations subject to tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 26, 1914.

The following revised schedule of articles and occupations subject to tax is published for the information of internal-revenue officers and others concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

REVISED SCHEDULE OF ARTICLES AND OCCUPATIONS SUBJECT TO TAX.

SPECIAL TAXES.

	Rate of tax.
Rectifiers of less than 500 barrels a year	$100.00
Rectifiers of 500 barrels or more a year	200.00
Wholesale liquor dealers	100.00
Retail liquor dealers	25.00
Wholesale dealers in malt liquors	50.00
Retail dealers in malt liquors	20.00
Manufacturers of stills	50.00
And for stills or worms manufactured, each	20.00
Brewers:	
Annual manufacture less than 500 barrels	50.00
Annual manufacture 500 barrels or more	100.00
Manufacturers of filled cheese	400.00
Wholesale dealers in filled cheese	250.00
Retail dealers in filled cheese	12.00
Manufacturers of oleomargarine	600.00
Wholesale dealers in oleomargarine artificially colored in imitation of butter	480.00
Wholesale dealers in oleomargarine free from artificial coloration	200.00

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	Rate of tax.
Retail dealers in oleomargarine artificially colored in imitation of butter	$48.00
Retail dealers in oleomargarine free from artificial coloration	6.00
Manufacturers of adulterated butter	600.00
Wholesale dealers in adulterated butter	480.00
Retail dealers in adulterated butter	48.00
Manufacturers of process or renovated butter	50.00
Manufacturers, packers, or repackers of mixed flour	12.00

Additional special taxes imposed by the act of October 22, 1914, taking effect November 1, 1914, to continue to January 1, 1916.

Bankers, for each $1,000 of capital employed	1.00
Brokers who have not paid as bankers	30.00
Pawnbrokers	50.00
Commercial brokers	20.00
Customhouse brokers	10.00
Commission merchants who have not paid as commercial brokers	20.00
Proprietors of theaters, museums, and concert halls:	
Seating capacity not over 250	25.00
Seating capacity over 250 and not exceeding 500	50.00
Seating capacity over 500 and not exceeding 800	75.00
Seating capacity over 800	100.00
Proprietors of circuses	100.00
Proprietors or agents of other exhibitions or shows for money	10.00
Proprietors of bowling alleys and billiard rooms, for each alley or table	5.00
Dealers in leaf tobacco (annual sales of 1,000 pounds or less exempt):	
Sales not over 50,000 pounds	6.00
Sales over 50,000 and not over 100,000 pounds	12.00
Sales over 100,000 pounds	24.00
Dealers in tobacco (manufactured tobacco, snuff, cigars, and cigarettes) exempt when annual receipts are not over $200	4.80
Manufacturers of tobacco:	
Sales not over 100,000 pounds	6.00
Sales over 100,000 and not over 200,000 pounds	12.00
Sales over 200,000 and not over 400,000 pounds	24.00
Sales over 400,000 and not over 1,000,000 pounds	60.00
Sales over 1,000,000 and not over 5,000,000 pounds	300.00
Sales over 5,000,000 and not over 10,000,000 pounds	600.00
Sales over 10,000,000 and not over 20,000,000 pounds	1,200.00
Sales over 20,000,000 pounds	2,496.00
Manufacturers of cigars:	
Annual sales not over 100,000 cigars	3.00
Annual sales exceed 100,000 and do not exceed 200,000 cigars	6.00
Annual sales exceed 200,000 and do not exceed 400,000 cigars	12.00
Annual sales exceed 400,000 and do not exceed 1,000,000 cigars	30.00
Annual sales exceed 1,000,000 and do not exceed 5,000,000 cigars	150.00
Annual sales exceed 5,000,000 and do not exceed 20,000,000 cigars	600.00
Annual sales exceed 20,000,000 and do not exceed 40,000,000 cigars	1,200.00
Annual sales exceed 40,000,000 cigars	2,496.00
Manufacturers of cigarettes:	
Manufacturers whose annual sales do not exceed 1,000,000 cigarettes	12.00
Annual sales exceed 1,000,000 and do not exceed 2,000,000 cigarettes	24.00
Annual sales exceed 2,000,000 and do not exceed 5,000,000 cigarettes	60.00
Annual sales exceed 5,000,000 and do not exceed 10,000,000 cigarettes	120.00
Annual sales exceed 10,000,000 and do not exceed 50,000,000 cigarettes	600.00
Annual sales exceed 50,000,000 and do not exceed 100,000,000 cigarettes	1,200.00
Annual sales exceed 100,000,000 cigarettes	2,496.00

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TAXES IN EFFECT.

TOBACCO AND SNUFF.

	Rate of tax after July 1, 1910.
Tobacco, however prepared, manufactured and sold, or removed for consumption or sale, per pound	$0.08
Snuff, however prepared, manufactured and sold, or removed for consumption or sale, per pound	.08

CIGARS AND CIGARETTES.

	Rate of tax per thousand after July 1, 1910.
Cigars of all descriptions made of tobacco, or any substitute therefor, and weighing more than 3 pounds per thousand	$3.00
Cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than 3 pounds per thousand	.75
Cigarettes weighing not more than 3 pounds per thousand	1.25
Cigarettes weighing more than 3 pounds per thousand	3.60

DISTILLED SPIRITS, ETC.

	Rate of tax.
Distilled spirits, per gallon	$1.10
Stamps for distilled spirits intended for export, each	.10
Except when affixed to packages containing two or more 5-gallon cans for export	.05
Case stamps for spirits bottled in bond	.10
Wines, liquors, or compounds known or denominated as wine, and made in imitation of sparkling wine or champagne, but not made from grapes grown in the United States, and liquors not made from grapes, currants, rhubard, or berries grown in the United States, but produced by being rectified or mixed with distilled spirits or by the infusion of any matter in spirits, to be sold as wine, or as a substitute for wine, in bottles containing not more than 1 pint per bottle or package	.10
Same, in bottles containing more than 1 pint, and not more than 1 quart, per bottle or package	.20
(And at the same rate for any larger quantity of such merchandise, however put up or whatever may be the package.)	

DISTILLED SPIRITS (Act of Oct. 22, 1914).

Grape brandy or wine spirits used in the fortification of sweet wines (to be assessed), per gallon	$0.55

FERMENTED LIQUORS (Act of Oct. 22, 1914).

Fermented liquors, per barrel, containing not more than 31 gallons	$1.50
(And at a proportionate rate for any other quantity or for fractional parts of a barrel authorized by law.)	

WINES, LIQUEURS, CORDIALS, ETC., DOMESTIC AND IMPORTED. (Act of Oct. 22, 1914.)

Still wines	per pint	$0.01
(In bottles containing less than pint in proportion.)	quart	.02
	gallon	.08
Champagne and other sparkling wines and artificially carbonated wines	per ½ pint or less	.05
More than ½ pint and not more than 1 pint		.10
More than 1 pint and not more than 1 quart		.20
(Larger quantities same rate.)		
Liqueurs, cordials, and similar compounds	per ½ pint	.01½
More than ½ pint and not more than 1 pint		.03
More than 1 pint and not more than 1 quart		.06
Larger containers	per gallon	.24

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OLEOMARGARINE.

	Rate of tax.
Oleomargarine, domestic, artificially colored to look like butter, of any shade of yellow, per pound	$0.10
Oleomargarine, free from coloration that causes it to look like butter, of any shade of yellow, per pound	.00¼
Oleomargarine, imported from foreign countries, per pound	.15

ADULTERATED BUTTER, AND PROCESS OR RENOVATED BUTTER.

Adulterated butter, per pound	$0.10
Process or renovated butter, per pound	.00½

FILLED CHEESE.

Filled cheese, per pound	$0.01
Same, imported, per pound	.08

MIXED FLOUR.

Mixed flour, per barrel of 196 pounds, or more than 98 pounds	$0.04
Half barrel of 98 pounds, or more than 49 pounds	.02
Quarter barrel of 49 pounds, or more than 24½ pounds	.01
Eighth barrel of 24½ pounds or less	.00½

(Mixed flour imported from foreign countries, in addition to import duties, must pay internal-revenue tax as above.)

OPIUM.

Opium manufactured for smoking purposes, per pound	$300.00

PLAYING CARDS.

Playing cards, per pack, containing not more than 54 cards	$0.02

WHITE PHOSPHORUS MATCHES.

White phosphorus matches, per hundred	$0.02

(Rate of tax after Jan. 1, 1915.)

TAX ON INCOMES.

(*Act of October 3, 1913.*)

Normal tax (assessed annually), 1 per cent on net income.

Exemption allowed individuals—

If single	$3,000
If married	4,000

Additional tax on individual incomes:	Per cent.
On incomes over $20,000 and not over $50,000	1
On incomes over $50,000 and not over $75,000	2
On incomes over $75,000 and not over $100,000	3
On incomes over $100,000 and not over $250,000	4
On incomes over $250,000 and not over $500,000	5
On incomes over $500,000	6

STAMP TAXES ON AND AFTER DECEMBER 1, 1914, TO CONTINUE TO JANUARY 1, 1916.

SCHEDULE A.—DOCUMENTARY.

	Rate of tax.
Bonds, debentures, or certificates of indebtedness of any association, company, or corporation, on each $100 of face value or fraction thereof	$0.05
On each original issue of certificates of stock, whether on organization or reorganization, on each $100 of face value or fraction thereof	.05

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	Rate of tax.
On all sales, agreements to sell, memoranda of sales, deliveries or transfers of shares, or certificates of stock of any association or corporation, on each $100 of face value or fraction thereof	$0.02
Upon each sale, agreement to sell, or agreement of sale of any products or merchandise at any exchange or board of trade, or other similar place, either for present or future delivery, for each $100 in value of said sale	.01
And for each $100 or fractional part thereof in excess of $100	.01
Promissory notes, and for each renewal, for a sum not exceeding $100	.02
For each additional $100 or fraction thereof	.02
Bills of lading, manifests, etc., issued by express companies or public carriers, etc	.01
Bonds, except those required in legal proceedings	.50
Certificates of profits or certificates or memoranda showing interest in the property or accumulations of any association, company, or corporation, and all transfers thereof, on each $100 of face value or fraction thereof	.02
Certificate of damage or otherwise and all other certificates or documents issued by port warden or marine surveyor	.25
Certificates of any description required by law, not otherwise specified	.10
Contract: Broker's note, or memorandum of sale of goods, or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind, issued by brokers, etc., for each note or memorandum of sale not otherwise provided for in act	.10
Conveyance: Deed, instrument, or writing conveying lands, tenements, or other realty, etc., value over $100 and not exceeding $500	.50
For each additional $500 or fraction thereof	.50
Entry of goods, wares, or merchandise in customhouse, not exceeding $100 in value	.25
Exceeding $100 and not exceeding $500	.50
Exceeding $500 in value	1.00
Entry for withdrawal of goods or merchandise from customs bonded warehouse	.50
Insurance, marine, inland, and fire (except purely cooperative or mutual), lightning or other peril, on each policy, or renewal on amount of premium charged on each $1 or fractional part	.00½
Insurance, fidelity, and guarantee on each policy, on each $1 or fractional part thereof of premium received	.00½
Passage tickets by any vessel from the United States to a foreign port, costing not exceeding $30 (tickets costing $10 or less exempt)	1.00
More than $30 and not exceeding $60	3.00
More than $60	5.00
Power of attorney or proxy for voting at an election of officers of any incorporated company or association, except religious, charitable, literary societies, or public cemeteries	.10
Power of attorney to sell or convey real estate or to rent or lease the same, to collect or receive rent, to sell or transfer stock, bonds, etc	.25
(Papers used in the collection of pension, back pay, or bounty claims, or claims for property lost in military or naval service are exempt.)	
Protest: Upon the protest of every note, bill of exchange, acceptance, check, or draft, or any marine protest	.25
Telegraph and telephone messages: Every person, firm, or corporation operating any telegraph or telephone line or lines is required to make a sworn statement to the collector of the number of messages or conversations transmitted over their lines during preceding month for which a charge of 15 cents or more was imposed, and for each of such messages or conversations to pay a tax of	01
On seats in palace or parlor cars and berths in sleeping cars (to be paid by the company selling the same)	.01

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SCHEDULE B.—IN EFFECT DECEMBER 1, 1914.

	Rate of tax.
Perfumery and cosmetics and other similar articles:	
For and upon every packet, box, bottle, pot, or phial, etc., where such packet, box, bottle, pot, phial, and contents shall not exceed retail price 5 cents	$0.00½
When retail price exceeds 5 cents and does not exceed 10 cents	.00½
When retail price exceeds 10 cents and does not exceed 15 cents	.00½
When retail price exceeds 15 cents and does not exceed 25 cents	.00½
And for each additional 25 cents of retail price or value or fractional part thereof in excess of 25 cents	.00½
Chewing gum or substitutes therefor:	
For and upon each box, carton, jar, or package containing chewing gum, when the retail value does not exceed $1	.04
If exceeding $1, for each additional dollar or fractional part thereof	.04

NOTE.—The act of August 18, 1914, known as the "United States cotton futures act," in effect February 18, 1915, imposes a tax on contracts of sale of cotton for future delivery made on any exchange, board of trade, or similar institution or place of business, of 2 cents for each pound of cotton involved, to be paid by means of stamps to be affixed to the contract or to the memoranda evidencing the same.

The collection of the tax devolves on the Commissioner of Internal Revenue under regulation of the Secretary of the Treasury.

MISCELLANEOUS TAXES NOT PAYABLE BY STAMP.

Circulation issued by any bank, etc., or person (except a national bank taxed under sec. 5214, Rev. Stat., and sec. 13, act of Mar. 14, 1900), per month	½ of 1 p. c.
Circulation (except national banks) exceeding 90 per cent of capital, in addition, per month	½ of p. c.
Banks, etc., on amount of notes of any person, State bank, or State-banking association, used for circulation and paid out	10 per cent.
Banks, etc., bankers, or associations, on amount of notes of any town, city, or municipal corporation paid out by them	10 per cent.
Every person, firm, association, other than national-banking associations, and every corporation, State bank, or State-banking association, on the amount of *their own notes* used for circulation and paid out by them	10 per cent.
Every such person, firm, association, corporation, State bank, or State-banking association, and also every national-banking association, on the amount of notes of any person, firm, association, other than a national-banking association, or of any corporation, State bank, or State-banking association, or of any town, city, or municipal corporation, used for circulation and paid out by them	10 per cent.
On deficiencies in production of spirits:	
On spirits which excess of materials used should produce under survey.	
On fruit brandy required to be produced from materials used and not reported.	
On spirits produced and not accounted for.	
Taxes ordinarily payable by stamps not paid at the time and in the manner required by law.	

FEES AND PENALTIES.

Fees of $1 for 100 words or fraction thereof to be charged by collectors for furnishing certified copies of lists of special taxpayers upon application of prosecuting officers of any State, county, or municipality.

Penalties of 50 per cent and 100 per cent for failure to make certain returns, or for making false returns, respectively.

Penalty of 5 per cent for failure to pay assessed taxes within the time limited by law.

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(T. D. 2036.)

Consignment of newspapers under Schedule A, act of October 22, 1914.

Reports of shipments of newspapers to be made monthly to collectors in lieu of bills of lading.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 28, 1914.

SIR: This office is in receipt of your letter of the 23d instant, relative to that portion of the internal-revenue act of October 22, 1914, relating to the consignment of newspapers.

In reply, you are informed that in lieu of a bill of lading, the publisher of the newspaper must file on or before the 15th day of each month with the collector of the district a report, under oath, showing the number of shipments during the preceding month, to which report a stamp shall be affixed equal in value to one cent for each shipment so reported. The portion of the act relating to this subject goes into effect December 1. The first report to be made, therefore, will be on or before January 15, 1915, for the number of bundles shipped during the month of December. * * *

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———

(T. D. 2037.)

Supplemental instructions relative to paying taxes imposed upon wines by the act of October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 30, 1914.

To collectors of internal revenue:

In office telegram of October 23, 1914, collectors were instructed to require dealers who sell wine to consumers to keep account of sales on and after that date and to delay collection of tax until further advised.

T. D. 2027 of October 24 prescribes method of procedure and form of report.

Collectors should collect no tax on wines sold by dealers on and after October 23 until they receive from this office the *special* wine

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stamps which they will require all dealers in wines who sell to consumers to purchase in quantities sufficient for their needs. So many of these stamps as will be necessary to represent the tax on wines sold up to the date of making the report required in T. D. 2027 will be canceled by each dealer and disposed of in the manner provided in said Treasury decision.

The *special* wine stamps that will be forwarded to collectors about the 15th proximo must be used *exclusively* to indicate the payment of the wine tax, and under no circumstances shall documentary or proprietary stamps be used to indicate the payment of tax on sale of wines or cordials, and it must be borne in mind by every collector that *no discount* can be allowed on the *sale of wine stamps.*

Collectors may allow a discount of 1 per cent on the sale of adhesive stamps used in the payment of the tax levied in Schedules A and B of the act in quantities of not less than $100 face value covered in *one sale,* except to officers and employees of the Internal Revenue Service.

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

(T. D. 2038.)

Emergency revenue law.

Taxes imposed under Schedule B effective on and after December 1, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 3, 1914.

To collectors of internal revenue:

Referring to the discrepancy in the act of October 22, 1914, as to the date when Schedule B goes into effect, the act providing in section 21 that the said schedule shall go into effect 30 days after the passage of the act and in the schedule itself that it shall go into effect December 1, you are advised that as originally drafted the act provided in both places that Schedule B was to go into effect 30 days after passage. This was later amended by paragraph 6 of Schedule B to December 1, 1914, and it is therefore held by this office that the schedule in question is effective on and after December 1, 1914.

GEO. E. FLETCHER,
Acting Commissioner of Internal Revenue.

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(T. D. 2039.)

Emergency revenue law—Special-tax returns.

Special-tax returns to be rendered under act of October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 5, 1914.

To collectors of internal revenue:

Every person, firm, or company liable to special tax under the act of October 22, 1914, should render a return and pay such special tax, as provided in the case of other special-tax payers. As these special taxes take effect from November 1, 1914, all such returns and payments, for the remaining portion of the special-tax year ending June 30, 1915, should be made during the present month or within the month in which the business is subsequently commenced.

The returns rendered by such persons, firms, and companies will be on Special Form 11A, except in the case of bankers, whose returns will be made on Form 457, revised. Blanks of these several forms and the required special-tax stamps will be furnished to collectors at an early date. The preparation and issue of stamps of the various denominations which would be required in the case of bankers are found to be impracticable and the taxes due from this class of special-tax payers will be assessed on a *special bankers' list*, as was done in the case of like taxes imposed by the war-revenue act of June 13, 1898.

Instructions as to the preparation of such lists will also be furnished at an early date.

W. H. OSBORN,
Commissioner of Internal Revenue.

NOTE.—It is suggested that the widest publicity through the press, without cost to the Government, should be given to the list of new special taxes in effect on November 1, as shown by T. D. 2035, Schedule of Taxes, and to the fact that return for these special taxes must be made during the current month. In the event that blank forms for returns are not received in time for persons to make return within the calendar month thereon, parties requesting same should be instructed to make a statement or return of liability on a plain paper, which can be received as a tentative return, relieving the party making the same from any liability to 50 per cent penalty for delinquency.

(T. D. 2040.)

Emergency revenue law—Motion-picture theaters.

Motion-picture theaters classed as taxable under the sixth paragraph of section 3, act of October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 3, 1914.

SIR: Replying to your communication of the 26th ultimo, you are informed that after careful consideration this office has reached the

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conclusion that motion-picture theaters come under the sixth paragraph of section 3 of the act of October 22, 1914, and therefore are taxable as theaters.

Respectfully, G. E. FLETCHER,
Acting Commissioner of Internal Revenue.

COLLECTOR, ELEVENTH DISTRICT, *Columbus, Ohio.*

(T. D. 2041.)

Emergency revenue law—Sales of seats or berths in cars.

Tax on sales of seats or berths in palace, parlor, or sleeping cars.—Form prescribed for rendering monthly statement.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 7, 1914.

To collectors of internal revenue and others concerned:

Until otherwise provided, every railroad company or other company owning or operating any palace or parlor car or sleeping car will, after January 1, 1915, and not later than the 20th day of each month, render to the collector of internal revenue of the district in which its principal office is located a sworn return of the number of seats or berths in any such car sold by it during the preceding month, and will pay to said collector the tax imposed by the revenue act of October 22, 1914, of 1 cent on each seat or berth so sold.

The return to be rendered in such cases will be in the following form:

(Form 674.)

UNITED STATES INTERNAL REVENUE.

Return of sales of seats and berths in palace, parlor, or sleeping cars taxable under act of October 22, 1914.

..... District of .....,
....., 191...

The undersigned, ..., of the .....,
(President or chief officer.) (Here give name of company.)
having its principal office at ....., State of ....., hereby certifies that the said company owns or controls certain palace, parlor, and sleeping cars in use on its or other railroad lines, and that during the month of ....., 191–, the total number of seats or berths in said cars sold by or on account of this said company was as follows:

Total number of seats sold	.....
Total number of berths sold	.....
Total of seats and berths sold	.....
Amount of tax due	$.....

....,
.....
(Title.)

Subscribed and sworn to before me this .... day of ....., 191..
[SEAL.] ....

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Blank forms of the return here prescribed will be furnished at an early date, and on receipt of such returns collectors will enter on their next regular lists, Form 23, the amount of tax found to be due in each case.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. McADOO,
Secretary of the Treasury.

(T. D. 2042.)

Emergency revenue law—Stamp tax on deeds.

Deeds delivered on and after December 1, 1914, must be stamped. Registers and recorders are required to take notice that instruments are stamped before accepting for record.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 31, 1914.

SIR: This office is in receipt of your letter of the 27th instant, in which you request to be informed if it would be necessary, under the internal-revenue act of October 22, 1914, to attach stamps to a deed of real property dated, executed, and acknowledged prior to December 1, 1914, and also delivered prior to that date to a third party for account of the grantee named in the deed, the delivery, however, from such third party to the grantee named in the deed taking place subsequent to December 1, 1914.

In reply, you are informed that the deed should be stamped before delivery, which takes place after the law goes into effect.

You also request to be informed if a deed delivered to the grantee named therein subsequent to December 1, 1914, could be recorded without the recording officer being required to see that stamps were attached.

In reply to this inquiry you are informed that section 13 of the act reads as follows:

That it shall not be lawful to record or register any instrument, paper, or document equired by law to be stamped unless a stamp or stamps of the proper amount shall have been affixed and canceled in the manner prescribed by law.

As this section of the law will become effective December 1, 1914, registers and recorders will be required on and after that date to take notice that all instruments required to be stamped are stamped before accepting same for record.

Respectfully,
ROBT. WILLIAMS, JR.,
Acting Commissioner of Internal Revenue.

Mr. ——— ———.

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(T. D. 2043.)

Emergency revenue law—Policies of fire insurance.

Stamp tax on policies of fire insurance under act of October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 6, 1914.

SIR: This office is in receipt of your letter of the 6th instant in regard to stamp tax on policies of fire insurance under the act of October 22, 1914.

You desire a ruling on policies made, signed, and issued by brokers and agents prior to December 1, 1914, on renewals of business expiring after December 1, 1914. A policy does not require a stamp until it is issued. If the policy is issued in due course of business, delivered and accepted in such a way as to be legally binding upon the parties before December 1, 1914, it would not be subject to the tax imposed by the recent act.

Respectfully,
W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2044.)

Emergency revenue law—Building and loan associations.

The exemption of cooperative building and loan associations extends only to stocks and bonds issued by such associations or companies.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 9, 1914.

SIR: This office is in receipt of your letter of the 26th ultimo in reference to liability of building and loan associations or companies under the internal-revenue act of October 22, 1914.

In reply, you are informed that the exemption extended by the revenue act of October 22, 1914, to cooperative building and loan associations, etc., extends only to stocks and bonds issued by such associations or companies.

The law appears clear on this subject in that it specifies "stocks and bonds issued by," etc., and thereby excludes from such exemption all other taxable instruments which may be executed or delivered by the associations or companies contained in the provision.

Respectfully,
W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

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(T. D. 2045.)

Emergency revenue law—Preparation of bankers' lists.

Instructions as to the preparation of special bankers' lists.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 6, 1914.

To collectors of internal revenue:

In view of the provisions of section 3 of the act approved October 22, 1914, imposing a special tax on bankers (for which special-tax stamps are not provided), each collector will, on or before the 10th of December, 1914, and on or before August 10, 1915, prepare and forward to this office a *special bankers' list* for the preceding month.

This list will be prepared on blanks prescribed for the regular assessment list, Form 23, and will be arranged alphabeticllay, (first) by names of cities or other places, and (second) by names of bankers in each city or other place in which two or more banks are located. If the district comprises two or more States or Territories, the names of the bankers should be arranged as above under the names of the States and Territories, also alphabetically arranged.

The heading of column 3 should be changed to read, "Amount of capital," and in this column will be entered the amount of capital, *including the surplus and undivided profits*, employed in business during the last fiscal year.

In column 4 will be entered the period, as "8 months ending June 30, 1915," "6 months ending December 31, 1915."

In column 5 of the November list will be entered the amount of tax computed on the basis of eight-twelfths of the tax at $1 for each $1,000 of capital reported in column 3 in each case, as provided above.

In column 6 will be entered the basis of the assessment as now required by the regulations of this office, and in column 7 will be entered the date of the receipt of Form 457.

Bankers whose returns are received after the special bankers' list has been forwarded and those commencing business subsequent to the month of November will be reported on the regular assessment lists, Form 23.

Collectors will receipt for the amounts assessed on the special bankers' list on a special receipt, Form 23½.

W. H. OSBORN,
Commissioner of Internal Revenue.

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(T. D. 2046.)

Emergency revenue law—Special taxes.

Digest of rulings under war-revenue act of June 13, 1898, identical with, or essentially similar to, the special-tax provision of the emergency revenue act of October 22, 1914, published for convenience in construing the latter act.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 9, 1914.

To internal-revenue officers and others concerned:

The following rulings, made under the special-tax provisions of the war-revenue act of June 13, 1898, and its amendments, which were identical with, or essentially similar to, the special-tax provisions of the act of October 22, 1914, are published for the information and guidance of all concerned.

While they are not necessarily controlling, they will be given great weight in construing the requirements of the later act, as Congress, in practically reenacting the provisions of the earlier act, must be considered to have done so in the light of the administrative construction given to that act.

W. H. OSBORN,
Commissioner of Internal Revenue.

BANKERS.

SEC. 3. That on and after November first, nineteen hundred and fourteen, special taxes shall be, and hereby are, imposed annually as follows, that is to say:

First. Bankers shall pay $1 for each $1,000 of capital used or employed, and in estimating capital surplus and undivided profits shall be included. The amount of such annual tax shall in all cases be computed on the basis of the capital, surplus, and undivided profits for the preceding fiscal year. Every person, firm, or company, and every incorporated or other bank, having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or sale, shall be a banker under this Act: *Provided*, That any postal savings bank, or savings bank having no capital stock, and whose business is confined to receiving deposits and loaning or investing the same for the benefit of its depositors, and which does no other business of banking, shall not be subject to this tax.

(1) The decision of the Supreme Court in the case of Selden *v.* Equitable Trust Co. (94 U. S., 419) construes section 3407, Revised Statutes, the language of which in defining bankers is identical with section 2.

The test question as to the liability of a company or firm as bankers, as laid down in that case is whether or not, having a place of business, a firm or person is embraced in any one of the three following classes:

First. Do they have a place of business "where credits are opened (to the general public) by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order"?

Second. Do they have a place of business where money is advanced or loaned on collaterals (stocks, bonds, etc.)?

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Third. Do they have a place of business where stocks, bonds, bullion, bills of exchange, or promissory notes are received from another person, for sale, or bills of exchange or promissory notes are received for discount, belonging to that other person? (Vol. 2, Treas. Dec. (1898), No. 20349.)

(2) Bankers, as well as all other special-tax payers, must be included in Record No. 10, kept by collectors for public inspection under section 3240, Revised Statutes; but nothing is required to be stated in the record but the name of the special-tax payer, his business, the place of business, and the time of payment of the special tax. (Vol. 2, Treas. Dec. (1898), No. 19969.)

(3) Loaning money on the personal notes of the borrowers, without collateral security, is not the business of banking contemplated by the statute. (Vol. 2, Treas. Dec. (1898), No. 20264.)

(4) When the charter of a savings bank (or other corporate bank) is surrendered, and the same persons who are officers and stockholders thereof carry on a private banking business, a new special tax is required. (Vol. 2, Treas. Dec. (1898), No. 20336.)

(5) Certain merchants receiving deposits from grain buyers and not from the general public do not thereby become bankers within the meaning of the statute. (Vol. 2, Treas. Dec. (1898), No. 20341.)

(6) City merchants who receive on deposit money from country merchants who are their customers, for the convenience of the latter, but not opening such accounts with the public generally, are not regarded as subject to special tax as bankers. (Vol. 2, Treas. Dec. (1898), No. 20342.)

(7) The receiving of employees' deposits on interest does not involve a company or firm in special-tax liability as bankers. (Vol. 2, Treas. Dec. (1898), No. 20343.)

(8) Merchants do not bring themselves within the definition of bankers by reason of selling their own drafts to their customers; they are not, on this account, required to pay special tax as bankers. (Vol. 2, Treas. Dec. (1898), No. 20365.)

(9) In the case of a bank with branches, a special tax is required of each branch, the special tax being due as to each place where the business of banking is carried on. (Sec. 3235, Rev. Stat., 1st clause; Vol. 2, Treas. Dec. (1898), No. 20397.)

(10) If two or more bankers, each of whom has paid a special tax, consolidate their business, the consolidated banking firm must pay a new special tax from the date of the consolidation. But in neither case are the capital and surplus of the old (defunct) firm to be considered in reckoning the special tax of the new firm. (Vol. 2, Treas. Dec. (1898), No. 20419.)

(11) *Bank's special tax—Change of name.*—Where a banking firm (not a corporation) changes its name, without any change in its membership, special tax is not required to be paid again on account of such change. (Vol. 2, Treas. Dec. (1899), No. 20786.)

(12) Private banks having no capital stock are subject to tax as bankers.

(13) In estimating the amount of special tax based upon capital and surplus, the amount invested in United States bonds is not to be deducted.

(14) The amount invested in a bank building is not to be deducted.

(15) A bank in liquidation, doing no business except collecting and dividing assets in closing, is not required to pay special tax.

(16) A bank engaged in business in the month of July must pay special tax for the entire year, beginning July 1.

(17) A trust company is liable as a banker if it comes within any one of the three clauses of definition in subdivision 1, section 3, act October 22, 1914.

(18) Borrowed capital must be taken into account when estimating amount of special tax.

(19) It is not the subscribed capital, but the capital actually employed during the preceding fiscal year, that is to be taken as the basis for estimating the special tax. (Vol. 2, Treas. Dec. No. 19843.)

(20) The advancing or loaning of money by brokers on the collateral security of stocks, if these loans or advances are confined by them strictly to customers who have given

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them, as brokers, orders for the purchase of stocks, and the collateral is held solely to secure themselves in filling such orders, is not regarded as involving them in special-tax liability as bankers within the meaning of the statute. (Vol. 1, Treas. Dec. (1889), No. 21152.)

BROKERS.

Second. Brokers shall pay $30. Every person, firm, or company whose business it is to negotiate purchases or sales of stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, or other securities, for themselves or others, shall be regarded as a broker: *Provided*, That any person having paid the special tax as a banker shall not be required to pay the special tax as a broker.

(21) The loaning of money for oneself or for others on commission does not subject the lender to special tax as a broker; but if a person makes it a business to negotiate purchases or sales of stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, or other securities, for himself or others, he is required to pay the tax. "It is only when making sales and purchases is his business, his trade, his profession, his means of getting his living, or making his fortune that he becomes a broker within the meaning of the statute." (Warren et al. *v.* Shook, 91 U. S., 704.)

(22) Persons or firms acting as agents for parties loaning money upon promissory notes secured by mortgages are not brokers.

(23) A lawyer can make investments for clients without being liable, unless he does it to such an extent that it can be called a "business."

(24) Loan and mortgage companies not liable for loaning money on notes or bonds secured by mortgage or trust deed on real estate. If they purchase notes, bonds, or other securities they become liable as brokers.

(25) A person engaged in the business of placing loans secured by notes and mortgages upon real estate, acting simply as agent, receiving a commission for his services in obtaining the application for the loan and attending to the execution of the papers, is not a broker.

(26) A person engaged in the business of selling real estate, acting as the agent of the owner in finding purchasers and receiving a commission for his services, is not a broker.

(27) When persons negotiate purchases or sales of promissory notes, if these are only occasional acts and do not constitute their regular business, they are not brokers within the meaning of the act.

(28) Bucket-shop proprietors giving memorandum of transactions are required to pay special tax as brokers.

(29) The principal's special-tax stamp for his place of business in another city covers the transactions only at that place of business and can not cover the business done elsewhere at a branch office.

(30) Broker's tax is not required to be paid at branch offices where a clerk is employed whose sole duty is to receive orders and transmit them by wire to the head of the office. The mere receipt and transmission by clerks of orders is not regarded as carrying on the business of a broker. (Vol. 2, Treas. Dec., No. 19843.)

(31) Special tax must be paid for every branch office where the employee in charge not only receives and transmits orders with the money to the main office, but also receives from the main office moneys for disbursement to customers, or keeps accounts with the customers at the branch office, or does other business with relation to the transactions of brokers at such branch office. Separate special tax must be paid and a separate stamp taken out for every "bucket shop," whether such office is called a branch office or a main office. (Vol. 2, Treas. Dec. (1898), No. 20374.)

(32) It is the language of the statute, and not the ordinary and usual meaning of the word "broker," which must govern in determining who is a broker required to pay a special tax. (Vol. 1, Treas. Dec. (1899), No. 20549.)

(33) While a mining syndicate or other association issuing certificates of stock in a company organized by it is not required to pay a special tax as a broker therefor,

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a manager or other person employed by it to sell such certificates on commission is a broker and required to pay special tax. (Vol. 1, Treas. Dec. (1899), No. 20637.)

(34) An express or railway agent doing business for his principals only, not a broker. (Vol. 1, Treas. Dec. (1898), No. 20106.)

(35) Bills of exchange, bonds for the payment of money, and promissory notes are in the popular acceptation of the term "securities" for money. (Jennings *v.* Davis, 31 Conn., 139.)

(36) Securities: "Evidence of indebtedness." "Written assurance for the return or payment of money." (Anderson's Dictionary of Law.)

(37) Proprietors of bucket shops who issue memoranda of their transactions in stocks and in cotton, grain, etc., even though they sell only "futures," are required to pay special tax both as brokers and as commercial brokers. (Vol. 2, Treas. Dec. (1899), No. 21607.)

(38) Loan and mortgage companies are not liable for special tax as brokers unless they engage in the sale of the securities on which they make loans. When they engage in such sales they become brokers and are required to pay special tax accordingly. (Vol. 2, Treas. Dec. (1899), No. 21620.)

(39) An express company engaged in the business of buying or selling foreign money or bills of exchange is required to pay special tax as a broker. (Vol. 2, Treas. Dec. (1899), No. 21709.)

(40) No person or firm liable to special tax for simply buying or selling real estate on commission. (T. D. 19755).

(41) Business of selling land on commission, taking applications for farm loans, and writing insurance, is not the business of a broker, and special tax is not required. (T. D. 19872.)

(42) Purchase of State, county, school, or district orders, or warrants, by any person does not subject him to special tax as a broker, if not done to an extent constituting it his business. (T. D. 19885.)

(43) Broker's special tax not required for negotiating loans of money. (T. D. 19894.)

(44) Occasional transactions in sale of sight draft do not necessitate the payment of special tax as broker. (T. D. 19937.)

(45) Only those whose business it is to negotiate purchases or sales of the securities contemplated by paragraph two of section 2, act of June 30, 1898 (subdivision 2, of section 3, act of October 22, 1914), are brokers and liable to tax. (T. D. 19940.)

(46) Special tax not required to be paid by a person because of the fact of his holding a seat on the stock exchange, if he transacts no business, directly or indirectly. (T. D. 19943).

(47) Special tax as broker not required for the mere cashing of checks for customers by merchants. (T. D. 20026.)

(48) Persons whose practice it is to buy fee bills of witnesses are not brokers. Such paper is not properly described by any of the terms used in the law, to wit, "stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, or other securities." (T. D. 21647.)

PAWNBROKERS.

Third. Pawnbrokers shall pay $50. Every person, firm, or company whose business or occupation it is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatever, as security for the repayment of money loaned thereon, shall be deemed a pawnbroker.

(49) A person is not required to pay a special tax as a pawnbroker for rare or occasional acts, which can not be regarded as his business or occupation. (Circular No. 508, Aug. 8, 1898; Vol. 2, Treas. Dec. (1898), No. 19843.)

(50) Special tax of pawnbroker not required to be paid for making loans when the chattels are not taken or received by way of pledge, pawn, or exchange. (T. D. 20552.)

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(51) A person using no tickets in his business, but making a pretense of buying articles which are brought to him, which he holds with a verbal agreement that the articles can be bought back again by the person selling them, upon the payment of a specified bonus, is liable to special tax as pawnbroker. (T. D. 20439.)

COMMERCIAL BROKERS.

Fourth. Commercial brokers shall pay $20. Every person, firm, or company whose business it is as a broker to negotiate sales or purchases of goods, wares, produce, or merchandise, or to negotiate freights and other business for the owners of vessels, or for the shippers or consignors or consignees of freight carried by vessels, shall be regarded as a commercial broker under this act.

(52) Commercial brokers are those persons only who, without having in their possession goods, wares, or merchandise, negotiate sales or purchases thereof on commission. (Vol. 2, Treas. Dec. (1898), No. 20416.)

(53) Commission merchants who receive goods in possession to sell for others are not commercial brokers. The difference between a factor or commission merchant and a broker is that a factor may buy and sell in his own name and has the goods in his possession, while a broker, as such, can not ordinarily buy or sell in his own name and has no possession of the goods sold. (Slack *v.* Tucker, 23 Wall., 321.)

(54) Cattle brokers, who receive and sell cattle on commission, are not required to pay special tax as commercial brokers.

(55) A person who is employed by certain firms to solicit and receive orders on commission for their goods and is bound by his agreement with them to give his entire services to them, to the exclusion of other firms or persons, not a commercial broker.

(56) Warehousemen who receive tobacco, cotton, or any other produce or goods on consignment for sale on commission are not liable as commercial brokers, but are liable as commission merchants under act of October 22, 1914.

(57) Auctioneers who receive and sell goods at their auction rooms or on the premises of the owners on commission are not subject to special tax as commercial brokers.

(58) Drug brokers are subject to the special tax.

(59) If cotton buyers have possession of cotton which they sell, they are not liable as commercial brokers; if they have not, and sell on commission, they are liable.

(Circular No. 508, vol. 2, Treas. Dec. (1898), No. 19843.)

(60) Persons representing cigar manufacturers who are furnished with samples and send orders to factories, receiving a commission for furnishing orders, are liable as commercial brokers. (T. D. 19575.)

(61) Warehouse receipts for grain transferred through elevators liable—Brokers must pay special tax at branch offices. (T. D. 19615.)

(62) Definition of commercial broker. Settled ruling modifying prior rulings. (Vol. 2, Treas. Dec. (1898), No. 20417.)

Decision of Comptroller Tracewell. (VI Comp. Dec., 545.)

(63) Persons whose business it is to obtain orders from those who desire to buy goods, and who purchase, receive, and forward the goods to their customers, are not on this account commercial brokers, nor are they required to pay special tax under the act of June 13, 1898, for such business, though they make a profit therein through discounts allowed them by merchants and commissions paid them by their customers—"Installment purchasers," who have running accounts at stores and give orders to their customers, on which orders these customers themselves buy and receive goods, are required to pay special tax as commercial brokers. (T. D. 19884.)

(64) A firm negotiating sales of goods not shipped to them nor held in their possession before being sold, but shipped from other points direct to purchasers from the mills, they being liable for all sales and doing their own "billing," making settlements with the mills at the end of each month, retaining a stipulated commission, held to be liable to tax as commercial brokers. (T. D. 19938.)

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(65) Persons representing several houses in the negotiation of sales of goods on commission (the goods not being in their possession), if they are not bound by agreement to act solely for these houses, but are at liberty to engage in the same transactions for other houses, are commercial brokers, and must pay special tax as such. (T. D. 19966.)

(66) Special tax is not required to be paid for representing one, two, or three firms to solicit and receive orders, if person is bound by agreement to give his entire service to them. (T. D. 20117.)

(67) Leaf tobacco dealers, who are also engaged in the business of negotiating the purchase of tobacco as agents for others, on commission, are commercial brokers under the fourth paragraph of section 2 of the war-revenue act. (T. D. 20592.)

CUSTOMHOUSE BROKERS.

Fifth. Customhouse brokers shall pay $10. Every person, firm, or company whose occupation it is, as the agent of others, to arrange entries and other customhouse papers, or transact business at any port of entry relating to the importation or exportation of goods, wares, or merchandise, shall be regarded as a customhouse broker.

(68) If the complete business of customhouse brokers is transacted by parties at offices at different ports of one district, a separate and distinct special tax must be paid for each of their offices, under the provisions of section 3235, Revised Statutes, page 114. (Circular No. 508, Aug. 8, 1898; vol. 2, T. D., No. 19843.)

(69) Transactions for which customhouse brokers' special tax *is not required* to be paid. (Vol. 2, T. D. (1898), No. 20106.)

(70) A special-tax stamp taken out by a person in his own name as a customhouse broker is sufficient to cover the business done by him in his own name, at the place of business stated therein, whether such business is done by him on his own account or as an agent for other persons. (T. D. 20206.)

(71) Bills of sale of vessel property are "customhouse papers" in contemplation of the statute, and a person "whose occupation it is, as the agent of others," to prepare such bills of sale is required to pay special tax as a customhouse broker. (T. D. 20321.)

(72) Persons whose occupation it is, as agents for others, to enter and clear vessels at the customhouse, can not be relieved from payment of special tax as customhouse brokers on the ground that they have paid special tax as commercial brokers, which entitles them "to negotiate freights or other business for the owners of vessels." (T. D. 20725.)

THEATERS, ETC.

Sixth. Proprietors of theaters, museums, and concert halls, where a charge for admission is made, having a seating capacity of not more than two hundred and fifty, shall pay $25; having a seating capacity of more than two hundred and fifty and not exceeding five hundred, shall pay $50; having a seating capacity exceeding five hundred and not exceeding eight hundred, shall pay $75; having a seating capacity of more than eight hundred, shall pay $100. Every edifice used for the purpose of dramatic or operatic or other representations, plays, or performances, for admission to which entrance money is received, not including halls or armories rented or used occasionally for concerts or theatrical representations, shall be regarded as a theater: *Provided*, That whenever any such edifice is under lease at the passage of this act, the tax shall be paid by the essee, unless otherwise stipulated between the parties to said lease.

(73) Persons are not required to pay special taxes for the mere occasional renting of their hall for public performances to dramatic companies or other persons charging entrance money therefor, but the special tax of $10 is required to be paid by such persons or companies if they give dramatic performances or the other exhibitions specifically mentioned in paragraph 8, section 2. (Subdivision 6, Sec. 3, Act Oct. 22, 1914.)

(74) Where theaters are entirely closed to performances during the months of July and August, and only open in the month of September, the special tax is to be reck-

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oned from the 1st day of September to the 1st day of July following, at the rate of $100 for the year beginning July 1. (Nov. 1, 1914, to June 30, 1915, current year.) (Circular No. 508, Aug. 8, 1898; Vol. 2, Treas. Dec., No. 19843.)

(75) Moving-picture shows taxable as theaters under Section 6. (T. D. 2040.)

(76) A special-tax stamp taken out by the lessees of a theater can not, upon their transferring their lease to other persons, be transferred and made to answer for the latter persons in conducting the theater. (T. D. 20396.)

CIRCUSES.

Seventh. The proprietor or proprietors of circuses shall pay $100. Every building, space, tent, or area where feats of horsemanship or acrobatic sports or theatrical performances not otherwise provided for in this act are exhibited shall be regarded as a circus: *Provided*, That no special tax paid in one State, Territory, or the District of Columbia shall exempt exhibitions from the tax in another State, Territory, or the District of Columbia, and but one special tax shall be imposed for exhibitions within any one State, Territory, or District.

(77) Exhibitions of feats of horsemanship (such as are seen in circuses), which occur on race tracks, are subject to a special tax of $100; but mere tests of speed of horses in racing are not regarded as "feats of horsemanship" within the meaning of paragraph 7 of section 2, act of June 13, 1898. (Subdivision 7, sec. 3, act of Oct. 22, 1914.)

(78) Variety shows, whether given at summer resorts or elsewhere, which include "acrobatic sports," come within the definition of a circus in the statute which requires special tax therefor.

(79) When a circus is exhibiting in any State in the month of July, the special tax of $100 is required to be paid for the year beginning July 1. If in the following month the circus goes into another State, the special tax at the rate of $100 for the year is to be reckoned from the 1st day of August to the 1st day of July following, and a separate special-tax stamp must be taken out accordingly for that State, and so on.

(80) The "theatrical performances" contemplated by paragraph 7, section 2, of the act of June 13, 1898 (subdivision 7, sec. 3, act of Oct. 22, 1914), are only those which are given in connection with a circus.

(81) A show under canvas exhibiting, among other things, acrobatic and athletic exercises, but no feats of horsemanship, and having no menagerie, is not subject to special tax as a circus ($100) under paragraph 7 of section 2, act of June 13, 1898, if the acrobatic exercises are so few and simple as to make it unreasonable to hold that they constitute the show a circus. (T. D. 19944.)

(82) A small wagon show having no "circus feats," but only "such acts as trapeze, wire walking, trained ponies, singing, and dancing," is not to be regarded as a circus within the meaning and intent of paragraph 7 of section 2, act of June 13, 1898. It is a show coming under the eighth paragraph, for which the special tax of $10 is required to be paid. (T. D. 19975.)

PUBLIC EXHIBITIONS, ETC.

Eighth. Proprietors or agents of all other public exhibitions or shows for money not enumerated in this section shall pay $10: *Provided*, That a special tax paid in one State, Territory, or the District of Columbia shall not exempt exhibitions from the tax in another State, Territory, or the District of Columbia, and but one special tax shall be required for exhibitions within any one State, Territory, or the District of Columbia: *Provided further*, That this paragraph shall not apply to chautauquas, lecture lyceums, agricultural or industrial fairs, or exhibitions held under the auspices of religious or charitable associations.

(83) The show of a medicine vender (consisting of various "athletic, humorous, and comic performances," there being given also an exhibition of ropewalking and trapeze performance, the object being merely to attract a crowd), liable to a tax of

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$10 under paragraph 8, act of June 13, 1898, instead of $100 under paragraph 7. (T. D. 19830.)

(84) The "theatrical performances" contemplated by this paragraph are only those which are given in connection with a circus.

(85) Agricultural associations are required to pay a special tax at the rate of $10 for exhibitions, including horse racing.

(86) Exhibitions and shows given on fair grounds, but not under management of the fair association, are required to pay special tax.

(87) A lecturer using a stereopticon to illustrate his lectures, and charging an admission fee, is liable to the special tax as giving a public exhibition or show for money.

(88) If an exhibition is given in more than one State the law requires payment of special tax for every such State.

(89) Amateur theatrical exhibitions, either in private houses or licensed public halls, for payment of expenses incurred in giving the exhibition and not for pecuniary profit of the performers or the manager, are not such performances as are subject to tax.

Amateur clubs or local organizations giving exhibitions, even though they charge an admission price, are not required to pay special tax therefor if the proceeds are not for the pecuniary profit of the clubs or associations, but are devoted to some charitable or public object and payment of expenses. (Vol. 1, Treas. Dec. (1899) No. 20840.)

(90) Concert gardens where no admission fee is charged, but where beer and other drinks are sold and shows or stage entertainments are given, are within the meaning of this paragraph, and the special tax of $10 must be paid therefor. (Vol. 2, Treas. Dec. No. 19843).

(91) Exhibitions and shows for which special tax *is required* to be paid. *(Vol. 2,* Treas. Dec. (1898), Decisions Nos. 19749, traveling shows; 19826–19830, medicine vender's show; 19873, horse races; 19968, exhibition at park or gardens; 19976, exhibition or show in a saloon; 20121, nickel-in-slot machine, liable under certain conditions; 20190, exhibitions by an athletic association; 20261, phonograph parlor; 20270, concert hall.)

(92) Entertainments for which special tax *is not required* to be paid. (Vol. 2, Treas. Dec. (1898), Decisions Nos. 19752, amateur theatricals; 19941, halls; 19977, lecturers or elocutionists; 20029, circus performances at county fairs; 20115, merry-go-round; 20123, illustrated lectures (educational association exclusively); 20124, harvest show; 20165, fortune telling; 20228, football, baseball, etc.; 20242, theatrical entertainment for benefit of fire department; 20273, bands in city parks; 20314, pianoforte lecture recital; 20319, store show (monkeys); 20337, university exhibitions.)

(93) Special tax is not required to be paid by proprietors of restaurants or cafes for employing bands of music or orchestras during meal hours for the benefit of their patrons, no admission price being charged and no performance or exhibition being given in connection therewith. Former rulings tending to a different conclusion modified. (Vol. 2, Treas. Dec. (1899), No. 21522.)

(94) An entertainment given by a railway company, to which no admission price is charged, is not regarded as an exhibition or show for money. (Vol. 2, Treas. Dec. (1899), No. 21559.)

(95) Special tax not required for bands of music playing in saloons to which no price of admission is charged, and where persons visiting such places are not under any obligation to buy. (Vol. 2, Treas. Dec. (1899), No. 21636.)

BOWLING ALLEYS AND BILLIARD ROOMS.

Ninth. Proprietors of bowling alleys and billiard rooms shall pay $5 for each alley or table. Every building or place where bowls are thrown or where games of billiards or pool are played, and that are open to the public with or without price, shall be regarded as a bowling alley or a billiard room, respectively.

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(96) Social clubs open only to members are not required to pay special tax on billiard tables. (Circular No. 508, Aug. 8, 1898; vol. 2, Treas. Dec., No. 19843.)

(97) Club not required to pay special tax on its billiard tables. (Vol. 2, Treas. Dec. (1898), No. 19743.)

(98) A person for the time being in the possession and control of a billiard table in a place or building open to the public is prima facie the proprietor of a billiard room and liable to pay the special tax therefor, even if the general property and ultimate control of the table or place, or either of them, be in some one else. (United States *v.* Howard, 13 Int. Rev. Rec., 118.)

(99) Special-tax stamp to be issued for each bowling alley, pool or billiard table. (Vol. 2, Treas. Dec. (1898), No. 19610.)

(100) Bagatelle table not liable to special tax. (Vol. 2, Treas. Dec. (1898), No. 20102.)

(101) Tivoli table not liable to special tax. (Vol. 2, Treas. Dec. (1898), No. 20126.)

(102) Bowling alley at Sunday-school picnics or at colleges, special tax not required. (Vol. 2, Treas. Dec. (1898), Nos. 19890–20021.)

(103) When a person who has taken out a special-tax stamp for a bowling alley closes this alley and thereafter opens another to the public, the stamp may be transferred to the latter bowling alley under the provisions of section 3241, Revised Statutes, if it remains in his ownership and control. (Vol. 2, Treas. Dec. (1899), No. 21495.)

(104) In every building or place where bowls are thrown, each division or track is a separate alley, for which the special tax of $5 must be paid. (Vol. 2, Treas. Dec. (1899), No. 21606.)

COMMISSION MERCHANTS.

Tenth. Commission merchants shall pay $20. Every person, firm, or company whose business or occupation it is to receive into his or its possession any goods, wares, or merchandise to sell the same on commission shall be regarded as a commission merchant: *Provided*, That any person having paid the special tax as a commercial broker shall not be required to pay the special tax as a commission merchant: *Provided further*, That this provision shall not apply to commission houses run upon a cooperative plan.

Not taxed under act June 30, 1909; hence no Treasury Decisions thereon.

(T. D. 2047.)

Emergency revenue law—Fermented liquors.

Further instructions in connection with additional tax on fermented liquors.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 10, 1914.

To collectors of internal revenue and others concerned:

For the purpose of correcting some misapprehension which may have arisen in connection with the collection of the additional tax on fermented liquors under the act of October 22, 1914, the following further instructions are hereby promulgated:

1. The additional tax of 50 cents per barrel accrues on all fermented liquors in possession of brewers or agents of brewers on the morning of October 23, 1914, before the commencement of business, whether contained in bottles or otherwise, which had been tax paid at the

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old rate of $1 per barrel. This includes beer in the measuring cisterns of a bottler, who is also a brewer or agent of a brewer, which had been tax paid at the old rate, as well as bottled beer in his bottling house which had been filled into bottles before October 23.

2. Inventories of stocks of fermented liquors on storage on October 23 are not required of wholesale dealers in malt liquors, except in cases where they are also brewers or agents of brewers. A wholesale malt liquor dealer who had beer in his possession or consigned to him on the morning of October 23, which was his own property, is not required to return the same. Beer which he may have had possession of merely as agent for a brewer should be returned.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2048.)

Income tax.

Taxable status of dividends paid on the capital stock from the current net earnings or established surplus created from the net earnings of corporations, joint-stock companies or associations, and insurance companies taxable upon their net income.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 12, 1914.

To collectors of internal revenue:

Dividends from the net earnings or established surplus created from the net earnings of any corporation, joint-stock company or association, and insurance company are vested in the stockholder on the date on which such dividends are declared, whether distributed or not, and regardless of the time when the surplus or undivided profits from which such dividends are declared were earned and entered on the books of the corporation as such. Dividends so declared should be accounted for in full in the returns of income of individuals for the year in which they became due and payable, whenever the amount of income is sufficient to require the inclusion of dividends, as provided in paragraph D of the income-tax law and T. D. 1945, and should be included in the gross income of corporations, etc., regardless of the amount of income.

All decisions and regulations which are in conflict herewith are hereby revoked.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2049.)

Emergency revenue law—Income-tax certificates.

Income-tax certificates which are not required by specific statute, but by regulations only, are not subject to tax as "certificates required by law" under act of October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 12, 1914.

SIR: In reply to your verbal inquiry as to whether certificates of ownership, certificates of exemption, and other certificates required by the income-tax regulations, but not by specific statute, are subject to tax as certificates required under the internal-revenue act of October 22, 1914, I beg to advise you that they are not.

While regulations made pursuant to and under authority of law as a rule have the force and effect of law, it is held by this office that it was not the intent of Congress to tax certificates which are required by regulations of the department for its own purposes and not by any express provision of law.

Respectfully, W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2050.)

Emergency revenue law.

Relative to classification of liqueurs, cordials, and similar compounds.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 13, 1914.

SIR: Replying to your letter of the 7th instant, you are informed that the words "liqueurs, cordials, and similar compounds," as used in the act of Congress approved October 22, 1914, are not held to include alcohol, whiskies, rums, brandies, and gins, except when so compounded as to be known to the trade as cordials and liqueurs. Compounds classed by this office as medicines are also excepted. The word "liqueur," as defined by Webster, is an alcoholic aromatic cordial, and obviously a cordial is practically the same. It would appear, therefore, that the words "liqueurs, cordials, *or similar compounds*," under whatever name sold or offered for sale, would include those beverages commonly known to the trade as liqueurs and cordials. Further, the term "similar compounds" would appear to include vermuths and like wine compounds, bitters used as beverages, cocktails, maraschino, cordialized liquors, fortified

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fruit juices, and all other compounds the formulas of which, methods of preparation, or use, make them sufficiently like liqueurs and cordials to place them in the class with liqueurs and cordials.

Respectfully,

G. E. FLETCHER,
Acting Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2051.)

Emergency revenue law—Schedule A.

Digest of rulings under war-revenue act of June 13, 1898, identical with or essentially similar to Schedule A of the emergency revenue act of October 22, 1914, published for convenience in construing the latter act.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 9, 1914.

To internal-revenue officers and others concerned:

The following rulings, made under Schedule A of the war-revenue act of June 13, 1898, and its amendements, which were identical with or essentially similar to Schedule A of the act of October 22, 1914, are published for the information and guidance of all concerned.

While they are not necessarily controlling, they will be given great weight in construing the requirements of the later act, as Congress, in practically reenacting the provisions of the earlier act, must be considered to have done so in the light of the administrative construction given to that act.

ROBT. WILLIAMS., JR.
Acting Commissioner of Internal Revenue.

SCHEDULE A.

STAMP TAXES.

BONDS, DEBENTURES, OR CERTIFICATES OF INDEBTEDNESS.

Bonds, debentures, or certificates of indebtedness issued on and after the first day of December, nineteen hundred and fourteen, by any association, company, or corporation, on each $100 of face value or fraction thereof, 5 cents; and on each original issue, whether on organization or reorganization, of certificates of stock by any such association, company, or corporation, on each $100 of face value or fraction thereof, 5 cents; and on all sales, or agreements to sell, or memoranda of sales or deliveries or transfers of shares or certificates of stock in any association, company, or corporation, whether made upon or shown by the books of the association, company, or corporation, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale, whether entitling the holder in any manner to the benefit of such stock, or to secure the future payment of money or for the future transfer of any stock, on each $100 of face value or fraction thereof, 2 cents: *Provided*, That it is not intended by this act to impose a tax upon an agreement evidencing a deposit of stock certificates as collateral security for money

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loaned thereon, which stock certificates are not actually sold, nor upon such stock certificates so deposited: *Provided further*, That in case of sale where the evidence of transfer is shown only by the books of the company the stamp shall be placed upon such books; and where the change of ownership is by transfer certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. And any person or persons liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person or persons, who shall make any such sale, or who shall in pursuance of any such sale deliver any such stock, or evidence of the sale of any such stock or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000, or be imprisoned not more than six months, or both, at the discretion of the court.

(1) When a bond is said to be issued. Whenever a corporation issues a bond, and there accrues to the corporation a benefit or consideration for issuing the same, the bond is subject to taxation. (Vol. 2, Treas. Dec. (1898), No. 20156.)

(2) Stamp tax; certificates of stock; sales and transfers of certificates of stock. (Vol. 2, Treas. Dec. (1898), No. 19607).

(3) In reckoning the stamp tax on transfers of certificates of shares, the tax is reckoned on the face value. (Vol. 2, Treas. Dec. (1898), No. 19710.)

(4) Transfers of shares or certificates of stock; how stamps are to be attached; stamp tax to be reckoned on face value of certificate. (Vol. 2, Treas. Dec. (1898), No. 19888.)

(5) Transfers of stock from guardian to ward subject to taxation. (Vol. 2, Treas. Dec. (1898), No. 20070.)

(6) Preferred stock issued in lieu of common stock not taxable when there is no change of ownership. (Vol. 1, Treas. Dec. (1899), No. 20694.)

(7) Where brokers acting in behalf of their principals buy stock and receive stamped bills of sale in their own names, they may transfer such stock on the books of the corporation to the names of their principals without additional stamp tax. (Vol. 1, Treas. Dec. (1899), No. 20727.)

(8) Certificates of stock of a foreign corporation when sold or delivered within the United States are liable to the same tax as certificates of stock of any domestic corporation. (Vol. 1, Treas. Dec. (1899), No. 20793.)

(9) "Puts" and "calls." The Attorney General decided that the former are not subject to tax, but that the latter, being agreements to sell, are taxable. (Vol. 1, Treas. Dec. (1899), No. 21151.)

(10) When a certificate of stock is presented for transfer and the power of attorney on the back thereof is dated prior to July 1, 1898, although the name of the transferee is not filled in until after that date, both the power of attorney and the certificate are required to be stamped. (Vol. 1, Treas. Dec. (1899), No. 21277.)

(11) No tax on the closing of a stock transaction caused by margin being exhausted because of market going against speculator. (Vol. 2, Treas. Dec. (1899), No. 21707.)

(12) The circumstances under which the memoranda issued by brokers evidencing the sale or purchase of stock need or need not be stamped. (Vol. 2, Treas. Dec. (1899), No. 21711.)

SALES OF TRANSFERS OF STOCK.

Following rulings are taken from Circular No. 503, Revised November 14, 1898:

(13) In reckoning the stamp tax on transfer of certificates of stock, the tax is reckoned on the face value. In reckoning this tax, the fact that only part of the face value of shares subscribed for and issued has been paid by the shareholders is not to be taken into consideration.

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(14) Where stock is sold at the par value of $100, and upon which it appears that only $25 have been paid, the tax is to be reckoned upon the face value of $100, and not upon the $25.

(15) Where one certificate represents several shares, the tax of 2 cents on each $100 or fraction thereof is to be reckoned on the face value of the certificate, and not on the face value of each separate share.

(16) On transfer of one certificate representing 500 shares, $5 par value, the stamp tax required is 50 cents.

(17) When stock is transferred for which no certificate has been issued, and the evidence of transfer is shown only by books of the company, the stamps should be placed upon such books. Where the change of ownership is by the transfer of a certificate, and the certificate contains a blank form of assignment on the back, which is filled in by the insertion of the name of the person to whom the stock is transferred, the stamp should be placed upon the certificate.

(18) In case of an agreement to sell, or where the transfer is, by the delivery of the certificate, signed in blank, the name of the transferee or vendee to be filled in afterwards, there should be made and delivered by the seller to the buyer a bill or memorandum of sale, to which the stamp should be affixed.

(19) Where certificates of shares were sold and delivered before July 1, 1898, entry of transfer on corporate books after June 30 does not require stamp.

(20) New certificates of stock issued to holder in lieu of original certificate, and remaining in his ownership, do not require stamps.

(21) When certificate of stock is sold and stamp tax is paid on memorandum thereof, upon transfer of this certificate to purchaser's name no additional tax for such transfer is required. Where one certificate represents several shares of stock (however large the number of shares), on transfer of this certificate the stamp tax is to be reckoned on its face value and not on the face value of each separate share of stock which it represents.

(22) Transfers of stock from parties occupying fiduciary relationships to those for whom they held the stock are transfers subject to taxation.

(23) A owns a certificate of 100 shares of stock; he transfers 50 shares to B; there are two certificates of 50 shares each issued in lieu of the 100-share certificate, 50 shares going to A and 50 shares to B. The tax imposed is on the transfer to B; there is no tax on A's transfer to himself.

SALE OF PRODUCTS OR MERCHANDISE ON EXCHANGE, ETC.

Upon each sale, agreement of sale, or agreement to sell, any products or merchandise at any exchange, or board of trade, or other similar place, either for present or future delivery, for each $100 in value of said sale or agreement of sale or agreement to sell, 1 cent, and for each additional $100 or fractional part thereof in excess of $100, 1 cent: *Provided*, That on every sale or agreement of sale or agreement to sell as aforesaid there shall be made and delivered by the seller to the buyer a bill, memorandum, agreement, or other evidence of such sale, agreement of sale, or agreement to sell, to which there shall be affixed a lawful stamp or stamps in value equal to the amount of the tax on such sale. And every such bill, memorandum, or other evidence of sale or agreement to sell shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers; and any person or persons liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person or persons, who shall make any such sale or agreement of sale, or agreement to sell, or who shall, in pursuance of any such sale, agreement of sale, or agreement to sell, deliver any such products or merchandise without a bill, memorandum, or other evidence thereof as herein required, of who shall deliver such bill, memorandum, or other evidence of sale, or agreement to sell, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000, or be imprisoned not more than six months, or both, at the discretion of the court.

That no bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell, in case of products or merchandise actually delivered at the time of sale or while in vessel, boat, or car, and actually in course of transportation, shall be subject to this tax, provided such bill, memorandum, agreement, or other

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evidence of such sale, or agreement of sale, or agreement to sell shall be accompanied by bills of lading or vouchers showing that the said products are actually in course of transportation as aforesaid.

(24) The provision relative to sales, or agreements to sell, of products or merchandise at any exchange or board of trade, or other similar place, and requiring the seller to give a bill or memorandum which shall be stamped, declared constitutional.

(25) Sales of live stock at stock yards come within the law, the same being a similar place to an exchange or board of trade.

(26) The tax is not a direct tax, nor a tax upon the business itself which is so transacted, but is a duty upon the facilities made use of and actually employed in the transaction of the business, separate and apart from the business itself. (Nicol *v.* Ames, 173 U. S., 509; vol. 1, Treas. Dec. (1899), No. 20984.)

(27) Transactions of live-stock exchanges—Duty of exchanges, when sale is made, or an agreement of sale, or an agreement to sell entered into, to give to buyer a bill, memorandum, or other evidence of such sale, and to place thereon the required stamp. (Vol. 2, Treas. Dec. (1898), No. 19739.)

(28) Tax on sales "at any exchange, or board of trade, or other similar place;" live stock comes within the classification of "any products or merchandise;" "similar place" defined in reference to the selling of live stock; sales of live stock at such places as those defined subject to taxation. (Vol. 2, Treas. Dec. (1898), No. 20031.)

(29) To constitute an exchange, board of trade, or other similar place, so as to subject the evidence of sale to tax, there must be more than one person, company, or partnership authorized to negotiate sales thereat. (Vol. 1, Treas. Dec. (1899), No. 21148.)

(30) Bucket shops defined; tax on agreements to sell shares of stock or merchandise at such places. (Vol. 1, Treas. Dec. (1899), No. 21279.)

(31) Sales of grain made at an exchange and sales of grain made by brokers in their own offices, held taxable. (Vol. 2, Treas. Dec. (1899), No. 21396.)

(32) Transactions of live-stock exchanges—Duty of exchanges, when sale is made, or an agreement of sale, or an agreement to sell entered into, to give to buyer a bill, memorandum, or other evidence of such sale, and to place thereon the required stamp. (T. D. 19739.)

PROMISSORY NOTES.

Promissory notes, except bank notes issued for circulation, and for each renewal of the same, for a sum not exceeding $100, 2 cents; and for each additional $100 or fractional part thereof in excess of $100, 2 cents.

(33) A judgment note is a promissory note and is required to be stamped as such. (T. D. 19652.)

(34) Receipts accepted in lieu of promissory note, as evidence of money loaned, must be stamped as promissory notes. (T. D. 20985.)

(35) Promissory notes under seal taxable same as other promissory notes, and not as bonds. T. D. 21691 revoked. (T. D. 21815.)

(36) Checks used in lieu of promissory notes must be stamped at the rate of 2 cents per $100. (Vol. 2, Treas. Dec. (1898), No. 20463.)

Following rulings are taken from Supplement to Internal Revenue Circular No. 503, dated August 16, 1898:

(37) Where a note or notes with detached interest-coupon notes are given, each coupon note requires a stamp in addition to the stamp placed on the principal note.

(38) Interest coupons attached to bonds and surrendered as receipts for interest paid do not require a stamp.

(39) No stamp is required upon the transfer by indorsement of promissory notes.

(40) Where notes secured by a deed of trust are used as collateral, the deed of trust and the notes are required to be stamped not on the basis of their face value, but on the amount for which they are pledged (that is to say, the memorandum of their pledge must be so stamped). This pledge of notes and deed of trust does not require to be

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stamped again because of renewals of the notes held as collateral if the pledge itself is not renewed. (Pledges not taxable under act of Oct. 22, 1914.)

(41) Promissory notes which have matured and have been allowed to run without suit are held not to be renewed by the payment of interest. This is looked upon as a "forbearance" and not a renewal, the holder not relinquishing his right of action for any stated period.

EXPRESS AND FREIGHT BILLS OF LADING, ETC.

Express and freight: It shall be the duty of every railroad or steamboat company, carrier, express company, or corporation or person whose occupation is to act as such to issue to the shipper or consignor, or his agent, or person from whom any goods are accepted for transportation where a charge exceeding 5 cents is made a bill of lading, manifest, or other evidence of receipt and forwarding for each shipment received for carriage and transportation, whether in bulk or in boxes, bales, packages, bundles, or not so inclosed or included; and such shipper, consignor, agent, or person shall duly attach and cancel, as in this act provided, to each of said bills of lading, manifests, or other memorandum, a stamp of the value of 1 cent: *Provided*, That a consignment of newspapers to any one point or to different points by the same train or conveyance when inclosed in one general bundle at the point of shipment shall be considered as one shipment, and, in lieu of a bill of lading therefor, the publisher of such newspaper shall file on or before the fifteenth day of each month with the collector of internal revenue for the district in which such newspaper is published a report under oath showing the number of such shipments during the preceding month to which report such publisher shall affix and cancel stamps equal in value to 1 cent for each shipment so reported: *Provided, further*, That the report herein required shall not include shipments of newspapers delivered to points within the county in which the same are published. Any failure to issue such bill of lading, manifest, or other memorandum as herein provided, shall subject such railroad or steamboat company, carrier, express company, or corporation or person to a penalty of $50 for each offense.

United States *v.* Wells, Fargo & Co. Express (96 Fed., 835).

Crawford *v.* Hubbell (89 Fed., 961).

(42) The common carrier shall issue bills of lading, manifest, or other evidence of receipt and forwarding. *"Shipment" defined:* On a through bill of lading it is one shipment, though several modes of conveyance are employed. Every separate shipment requires evidence that it has been made, and to the evidence the stamp is affixed. (Vol. 2, Treas. Dec. (1898), No. 19829.)

(43) Opinion of the Attorney General, August 17, 1898, on the question whether the word "goods" includes money: Where an express company receives money for transportation, it is regarded as "goods" under Schedule A, and a bill of lading must be issued therefor and a stamp affixed. (Vol. 2, Treas. Dec. (1898), No. 19970.)

(44) Receipts, bills of lading, or manifests issued by express companies in cases of shipment of money and securities of the United States Government under contract for transportation of same are subject to stamp tax under act of 1898. (Vol. 2, Treas. Dec. (1898), No. 19996.)

(45) The Attorney General holds that the law which makes it the duty of the carrier to issue a bill of lading or a receipt to a person from whom any goods are accepted for transportation, and to stamp the same, does not apply to baggage received by railroad companies and carried upon the same train with the owner, whether such baggage be the quantity allowed ordinarily by the rules of the railroad company or is in excess of such amount. (Vol. 2, Treas. Dec. (1898), No. 20169.)

(46) Exemption from tax of express matter carried for railroad company free under contract with express company. (Vol. 2, Treas. Dec. (1898), No. 20240.)

(47) Memorandum receipts for freight, afterwards exchanged for bills of lading, must be stamped when issued. (Vol. 2, Treas. Dec. (1899), No. 21688.)

(48) Concerning the business of local expressmen and common carriers. (Vol. 2, Treas. Dec. (1899), No. 21692.)

(49) No tax on receipts issued for special-delivery baggage. T. D. 21668 revoked. (T. D. 13.)

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(50) When tax is paid on general bundle of newspapers, each package in the general bundle which is taken therefrom and delivered at intermediate points does not require a stamp. (T. D. 19846.)

(51) Dray tickets or shipping receipts not surrendered for a stamped bill of lading must be themselves stamped. (T. D. 19887.)

(52) Tax on bills of lading or receipts for goods accepted for transportation by express and freight companies—Definition of "express business" within the meaning of the law. (T. D. 19965.)

(53) Bills of lading or receipts from transportation companies may include more than one shipment therein, provided that a stamp or stamps amounting in value to 1 cent for each shipment shall be affixed thereto and canceled. (T. D. 20194.)

TELEGRAPH AND TELEPHONE MESSAGES.

Telegraph and telephone messages: It shall be the duty of every person, firm, or corporation owning or operating any telegraph or telephone line or lines to make within thirty days after the expiration of each month a sworn statement to the collector of internal revenue in each of their respective districts, stating the number of dispatches, messages, or conversations originated at each of their respective exchanges, toll stations, or offices, and transmitted thence over their lines during the preceding month for which a charge of 15 cents or more was imposed, and for each of such messages or conversations the said person, firm, or corporation shall collect from the person paying for the message or conversation a tax of 1 cent in addition to the regular charges for the message or conversation, which tax the said person, firm, or corporation shall in turn pay to the said collector of internal revenue of their respective districts: *Provided*, That only one payment of said tax shall be required, notwithstanding the lines of one or more persons, firms, or corporations shall be used for the transmission of each of said messages or conversations: *Provided further*, That the messages or dispatches of the officers and employees of any telegraph or telephone company concerning the affairs and service of the company, and like messages or dispatches of the officials and employees of railroad companies sent over the wires on their respective railroads shall be exempt from this requirement: *And provided further*, That messages of officers and employees of the Government on official business shall be exempt from the taxes herein imposed upon telegraphic and telephonic messages.

(54) Exemption in favor of dispatches sent by State officers in discharge of their official duties. (T. D. 19704.)

(55) Telegraphic messages of railroad companies concerning the affairs and service of the companies, when exempt. (T. D. 19794.)

(56) Exemption from stamp tax of telegrams of foreign diplomatic officers residing in this country. (T. D. 20060.)

(57) Telegraph messages of associated steamship lines, or fast freight lines operating over railroads, not entitled to exemption from stamp tax under section 18, act of June 13, 1898. (T. D. 20066.)

(58) The fact that an individual holds a telegraph frank has no bearing upon the question of liability or nonliability to stamp tax of the message sent by such frank holder. (T. D. 20066.)

INDEMNITY OR OTHER BONDS.

Bond: For indemnifying any person or persons, firm, or corporation who shall have become bound or engaged as surety for the payment of any sum of money, or for the due execution or performance of the duties of any office or position, and to account for money received by virtue thereof, and all other bonds of any description, except such as may be required in legal proceedings, not otherwise provided for in this schedule, 50 cents.

(59) Bonds of municipal officers required to be stamped. (Vol. 2, Treas. Dec. (1898), No. 19686.)

(60) Tax on renewal of bonds of fidelity companies taking effect on or after July 1, 1898. (Vol. 2, Treas. Dec. (1898), No. 19845.)

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(61) Tax on bonds required before a person can enter on the duties of a State office not a tax on the functions of a State government. (Vol. 1, Treas. Dec. (1899), No. 20510.)

(62) Bonds of notaries public are subject to a tax. (Vol. 1, Treas. Dec. (1899), No. 20547.)

(63) Dramshop bonds. (United States *v.* Ambrosini, vol. 3, Treas. Dec. (1900), Int. Rev. No. 40.)

(64) Bonds required in legal proceedings. Bonds of administrators, executors, guardians, and receivers appointed by the courts not taxable. (Vol. 1, Treas. Dec. (1899), No. 20756.)

(65) Opinion of the Attorney General that bonds given by private individuals secured by mortgages are taxable as bonds of any description not otherwise provided for, and not as promissory notes. (Vol. 1, Treas. Dec. (1899), No. 20788.)

(66) Bonds given under section 3297, Revised Statutes, by officers of State institutions for alcohol to be used for scientific purposes not subject to stamp tax. (Vol. 1, Treas. Dec. (1899), No. 20876.)

(67) Stamps required on bonds of distillers, brewers, and other manufacturers, when given in duplicate or triplicate, only the original to be stamped. Modification of Treasury ruling No. 19707, of July 18, 1898. (Vol. 1, Treas. Dec. (1899), No. 21312.)

(68) Guaranties accompanying proposals taxable the same as bonds. (Vol. 2, Treas. Dec. (1899), No. 21609.)

(69) Bonds of indemnity, and fidelity and guaranty insurance. (Vol. 3, Treas. Dec. (1900), Int. Rev. No. 15.)

(70) Warehousing bonds taxable under Schedule A, act of June 13, 1898. (T. D. 19609.)

(71) Instructions in regard to stamping bonds of brewers, manufacturers of tobacco, manufacturers of cigars, distillers, etc. (T. D. 19707.)

(72) Bonds issued by guaranty companies in Canada guaranteeing the fidelity of employees, individuals, or corporations in the United States. (T. D. 19738.)

(73) When a bond is said to be issued—Whenever a corporation issues a bond and there accrues to the corporation a benefit or consideration for issuing the same the bond is subject to taxation. (T. D. 20156.)

(74) Bond of private person secured by mortgage considered in relation to opinion of the Attorney General and amendment to Schedule A, approved February 28, 1899. (T. D. 20796.)

(75) Where fidelity or guaranty companies become sureties on bonds, tax is due and payable whenever the premiums are paid.—Method of paying tax.—Tax on renewal of bonds. (T. D. 21666.)

(76) The conveyance used under the statutes of the State of Georgia in cases where the payment of a debt is secured by pledging of real estate is taxable under the paragraph in Schedule A relating to mortgage or pledge.—The "bond to reconvey" is subject to a tax of 50 cents. (T. D. 21667.)

(77) A bond filed by order of court to obtain a decree or order for the sale of real estate is a bond given in a legal proceeding and is exempt from tax.

(78) Bonds given by public officers, such as sheriffs, clerks, registers or recorders of deeds, treasurers of counties, cities, or towns, or other public officers of like character, are required to be stamped.

(79) Mere agreements to build houses are not taxable, but if bonds are included for the faithful performance of work or contracts, they are held to be subject to tax as bonds.

(80) Bonds issued by guaranty companies in Canada guaranteeing the fidelity of employees, of individuals, or corporations in the United States, executed and delivered in Canada, are not taxable, but if they are not valid until countersigned or delivered by the agent in the United States, they should be stamped.

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(81) Marriage bond requires a stamp of 50 cents.

(82) Bonds "required in legal proceedings" are exempt from stamp tax.

CERTIFICATES.

Certificate of profits, or any certificate or memorandum showing an interest in the property or accumulations of any association, company, or corporation, and on all transfers thereof, on each $100 of face value or fraction thereof, 2 cents.

Certificate: Any certificate of damage, or otherwise, and all other certificates or documents issued by any port warden, marine surveyor, or other person acting as such, 25 cents.

Certificate of any description required by law not otherwise specified in this act, 10 cents.

(83) Liability for recording or registering documents required by law to be stamped unless stamps are affixed and canceled. (T. D. 19681.)

(84) Certain certificates made by national banking associations not liable. (T. D. 19698.)

(85) Stamping certificates of damage to vessels, 25-cent stamp required on originals but none on copies. (T. D. 19706.)

(86) Letters of administration and other probate papers, certificates of sale for unpaid taxes, and certificates of redemption, no stamp required. (T. D. 19837.)

(87) Teachers' certificates issued by State or county officers do not require a stamp—Certificates required by law, issued by State officers at request of private persons, solely for private use, require a stamp. (T. D. 19883.)

(88) Certificates of inspection of steam vessels and all copies thereof are exempt from taxation. (T. D. 20387.)

(89) Certificates of authority issued to insurance agents by State officers are subject to taxation, and the rate imposed is 10 cents on each certificate. (T. D. 20551.)

(90) Certificates as to use of alcohol withdrawn from bond for scientific purposes under section 3297, Revised Statutes, held to be not subject to stamp tax under act of June 13, 1898. (T. D. 20980.)

(91) Certificates attached to depositions to be used in legal proceedings not taxable. (T. D. 9.)

Following rulings are taken from supplement to Internal Revenue Circular No. 503, dated August 16, 1898:

(92) Certificates required by law issued by any department or officer of the Government at the request of private persons, solely for private use, should be stamped. The stamp should be furnished by the person applying for the instrument and for whose use and benefit the same is issued, and should be affixed before the document is delivered.

(93) Certificates of officers of the United States given in the discharge of official functions necessary in carrying on the machinery of the Government are exempt.

(94) Certificates issued by an officer of the State, in the interest of the State, are not liable to tax.

(95) Any documents, the stamping of which would make it necessary that the State should furnish and affix the stamp, are held to be exempt from the stamp tax.

(96) Return of birth, certificate of death, and certificates of the registrar as to the facts declared concerning birth, marriage, and death are none of them held to be subject to the stamp tax imposed upon certificates, in view of the fact that these certificates are given in pursuance of State laws for public purposes.

(97) Certificates issued by the health officer of New York, under State statute, relative to the employment of children, are exempt, being issued in the discharge of a duty connected with the operations of the Government.

(98) A marriage certificate, to be returned to any officer of a State, county, city, or town, to constitute part of a public record, requires no stamp. A marriage certifi-

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cate issued by the officiating clergyman or magistrate and given to the parties, if required by law, must be stamped at the rate of 10 cents.

(99) A teacher's certificate issued by a county superintendent of public instruction or other officer of State, county, or municipality comes within the exemption provided by section 17 of the act, and does not require a stamp. These certificates, given under regulations adopted in connection with public schools, are held to be for governmental purposes rather than for private use.

(100) A mercantile license or liquor dealer's license, being a certificate required by the laws of a State or ordinance of a city in the exercise of the functions governmental, taxing, or municipal of the State or corporation, comes within the exemption.

(101) Inspectors and weighers of grain who give certificates under State laws are not required to stamp such certificates. They are exempt under section 17.

(102) No stamp is required upon certificates of the sufficiency of sureties upon bonds.

(103) A stamp is required on a certificate of incorporation.

(104) The certificate of a clerk of court to the qualifications of a notary public, or justice of the peace, is held to be a certificate requiring a stamp.

(105) An architect's certificate requires no stamp, unless, by an indorsement, it becomes an order for the payment of money.

(106) A certificate of acknowledgement to a deed where the consideration of the deed is $100 or less, or to a mortgage where the consideration is $1,000 or less, does not require a stamp. (See also No. 119.)

(107) Certificates issued at tax sale or certificates of redemption from tax sale do not require stamps.

(108) Certificate of "proof of loss" for use of an insurance company, being a statement made as to the facts and circumstances attending a fire, is not a certificate requiring a stamp.

(109) Certificates required by law, which are made by court officers under the direction and authority of the court, and which are necessary to give proper effect to the court proceedings, are exempt.

(110) Court processes, such as summonses, writs of attachment, subpœnas, warrants, orders of court, etc., are not required to be stamped.

(111) Certificates of protest of every note, bill of exchange, etc., whether protested by a notary public or by any other officer duly authorized by law, must be stamped.

Rulings from Circular No. 503, revised November 14, 1898:

(112) "Certificates of any description required by law not otherwise specified in this act, 10 cents." The first requirement necessary to subject any given certificate thus generally described to tax is that it shall be one which is required to be given by law, national, State, or municipal. All such are taxable, except those coming within the exemption of section 17—that is to say, those which are given strictly in the exercise of the functions—governmental, taxing, or municipal—of the State or corporation.

(113) Certificates given by an officer, not for a public or governmental purpose, but for private interests and use, are liable to the tax if they are given in obedience to any law which requires them to be given when called for.

(114) A certificate of search showing that the dockets or records of a court have been searched, and show either that liens exist or do not exist as to property, or that judgments are recorded or are not recorded, and also certificates of search to ascertain whether or not titles are good, whether taxes have been paid, and other certificates of this character are not such as are required in the general discharge of governmental functions on the part of the officers giving them, but are such as are needed for private use and private interests, and are, therefore, subject to the tax, as being required by law to be given when called for.

(115) If the act performed, or the certificate issued by the officer is in the discharge of an official function necessary in operating the general machinery of the Government, it is exempt.

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(116) Certificates of acknowledgment of deeds and mortgages are not required to be stamped. The memorandum on the back of a deed or mortgage, made by the register or recorder, that the instrument has been placed upon record, is not subject to taxation. It is not a certificate such as is contemplated by the law. It is a brief note on the back of the deed or mortgage citing date of filing and date and place of record.

(117) Certificates of birth, marriage, and death, given in pursuance of the laws of the State requiring the collection and registration of vital statistics as a basis for the administration of public health laws, come within the exemption of section 17. Such certificates, however, when issued to private persons for private use, are subject to the 10-cent stamp tax.

CONTRACTS.

Contract: Broker's note, or memorandum of sale of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind or description issued by brokers or persons acting as such, for each note or memorandum of sale, not otherwise provided for in this act, 10 cents.

Following rulings from Circular No. 503, dated November 14, 1898:

(118) The original note or memorandum of sale is alone subject to the tax of 10 cents when made by a broker or one acting as such, and the tax in payable by said broker or one acting as such; the duplicate or the copy of the original memorandum of sale is not taxed.

(119) A mere memorandum accompanying an offer to purchase is subject to the tax only provided the offer is accepted, and should be stamped by the broker on the acceptance of the offer.

(120) A statement of account showing the receipts and disbursements in connection with a sale, and not being the contract of sale, does not require a stamp.

(121) A broker's memorandum of sale of promissory notes ("notes of hand") requires the 10-cent stamp.

CONVEYANCES.

Conveyance: Deed, instrument, or writing, whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance thereon, exceeds $100 and does not exceed $500, 50 cents; and for each additional $500 or fractional part thereof in excess of $500, 50 cents: *Provided*, That nothing contained in this paragraph shall be so construed as to impose a tax upon any instrument or writing given to secure a debt.

NOTE.—The act of June 13, 1898, taxed conveyances upon the whole value of the consideration, while the act of October 22, 1914, taxes such instruments on the value exclusive of the value of any lien or incumbrance thereon.

(122) Referee's deed. Decision of New York Supreme Court. (Loring *v.* Chase, Vol. 1, Treas. Dec. (1899), No. 20794.)

(123) A conveyance of realty by a master commissioner must have necessary stamps to be receivable for record. (Farmers' Loan and Trust Co. *v.* Council Bluffs Gas and Electric Light Co. (1898), 90 Fed., 806. Vol. 1, Treas. Dec. (1899), No. 20952.)

(124) Taxation of conveyances of realty sold subject to mortgage. Decision of Judge Taft in United States Circuit Court for Southern District of Ohio considered. (Vol. 1, Treas. Dec. (1899), No. 21314.)

(125) Escrow deeds are not subject to taxation until final delivery. (Vol. 2, Treas. Dec. (1898), No. 20096.)

(126) A contract for deed used in selling real estate is not subject to stamp tax. (Vol. 2, Treas. Dec. (1898), No. 20065.)

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(127) Releases of mortgages and deeds of trust operating as mortgages are not subject to taxation, no matter in what form they are executed. (Vol. 2, Treas. Dec. (1898), No. 20440.)

(128) Deeds of masters in chancery are required to be stamped. (Vol. 2, Treas. Dec. (1898), No. 20311.)

(129) Warranty deed with vendor's lien taxed as a conveyance of land. No mortgage tax imposed thereon. (Vol. 2, Treas. Dec. (1898), No. 20320.

(130) When a partition deed is operative in defining boundary lines or in showing by location each tenant in common's interest, no tax accrues. (Vol. 1, Treas. Dec. (1899), No. 20792.)

(131) A deed or mortgage executed and delivered prior to July 1, 1898, is subject to stamp tax when offered for registration after that date in States where, by State law, registration is necessary to pass title or establish valid lien. (Vol. 1, Treas. Dec. (1899), No. 20838.)

(132) Conveyance of a mine located on unpatented land is subject to taxation. (Vol. 1, Treas. Dec. (1899), No. 20986.)

(133) Decision construing the clause in Schedule A relative to stamps on conveyances. United States Circuit Court, Western District of Missouri. (Vol. 3, Treas. Dec. (1900), Int. Rev. No. 51.)

(134) Deeds of conveyance executed by and between tenants in common not taxable. Deeds of conveyance executed by and between joint tenants taxable. (Vol. 1, Treas. Dec. (1899), No. 21283.)

(135) Conveyance of realty to trustees or other persons without a valuable consideration not taxable. (Vol. 3, Treas. Dec. (1900), Int. Rev. No. 52; Circular 555, Mar. 9, 1900.)

(136) A deed of conveyance conveying real estate that lies in countries that are not United States territory is not subject to taxation, though the grantor and grantee may both be citizens and residents of the United States. (Vol. 2, Treas. Dec. (1899), No. 21562.)

(137) Deeds that are simply confirmatory and do not vest title not already vested are exempt from tax; same as to deeds of partition. (Circular No. 503, 2d revision. Compilation of decisions for year 1899, p. 293.)

(138) If a deed does not grant, assign, transfer, or convey to the purchaser any lands, tenements, or other realty, but only the right to burial, to erect monuments, etc., it does not require a stamp. (T. D. 19838.)

(139) The words of purchase in the paragraph of the law relating to stamps on conveyances include all changes of title except those occurring by descent or operation of law. (T. D. 20195.)

Modified by circular 555 of March 9, 1900. Only those where a valuable consideration, capable of estimation in money value, passes.

(140) Quitclaim deed taxable according to value of the property interest conveyed. (T. D. 20232.)

(141) Contracts for sale of land taxable if they vest title; if provision is made for future delivery of deed, they are not taxable. (T. D. 20310.)

(142) Ground-rent deed incorporated in the following ruling taxable as a conveyance and not as a lease. (T. D. 21537.)

CUSTOMHOUSE ENTRIES.

Entry of any goods, wares, or merchandise at any customhouse, either for consumption or warehousing, not exceeding $100 in value, 25 cents; exceeding $100 and not exceeding $500 in value, 50 cents; exceeding $500 in value, $1.

Entry for the withdrawal of any goods or merchandise from customs bonded warehouse, 50 cents.

(143.) Stamps on customhouse entries, bonds, etc. (T. D. 19605.)

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INSURANCE—MARINE, FIRE, LIGHTNING, ETC.

Insurance: Each policy of insurance or other instrument, by whatever name the same shall be called, by which insurance shall be made or renewed upon property of any description (including rents or profits), whether against peril by sea or on inland waters, or by fire or lightning, or other peril, made by any person, association, or corporation, upon the amount of premium charged, one-half of 1 cent on each dollar or fractional part thereof: *Provided*, That purely cooperative or mutual fire insurance companies or associations carried on by the members thereof solely for the protection of their own property and not for profit shall be exempted from the tax herein provided: *And provided further*, That policies of reinsurance shall be exempt from the tax herein imposed by this paragraph.

(144) Tax on insurance policies issued by foreign insurance companies having agencies in the United States. (Vol. 2, Treas. Dec. (1898), No. 20034.)

(145) Fire insurance policy, when assigned or transferred, taxed in proportion to the unearned premium. (Vol. 2, Treas. Dec. (1898), No. 20068.)

(146) Policies of insurance (marine) issued by foreign companies having no established agencies in the United States are nevertheless subject to the stamp tax when obtained by or through insurance brokers residing in this country. (Vol. 2, Treas. Dec. (1898), No. 20259.)

(147) Stamps must be affixed to premium notes as well as to policies. (T. D. 19620.)

(148) Ruling as to mutual fire insurance companies—In what cases exemption applies. (T. D. 19651.)

(149) Policies of mutual insurance companies, when taxable and when exempt—When the receipts of the company are invested and profit accrues the policies are subject to taxation. (T. D. 20020.)

INSURANCE—CASUALTY, FIDELITY, AND GUARANTEE.

Each policy of insurance, or bond or obligation of the nature of indemnity for loss, damage, or liability issued, or executed, or renewed by any person, association, company, or corporation, transacting the business of fidelity, employer's liability, plate glass, steam boiler, burglary, elevator, automatic sprinkler, or other branch of insurance (except life, personal accident, and health insurance, and insurance described and taxed or exempted in the preceding paragraph and excepting also workmen's compensation insurance carried on by the members thereof solely for their own protection and not for profit), and each bond undertaking or recognizance, conditioned for the performance of the duties of any office or position, or for the doing or not doing of anything therein specified, or other obligation of the nature of indemnity, and each contract or obligation guaranteeing the validity or legality of bonds or other obligations issued by any State, county, municipal, or other public body or organization, or guaranteeing titles to real estate or mercantile credits executed or guaranteed by any liability, fidelity, guarantee, or surety company upon the amount of premium charged, one-half of 1 cent on each dollar or fractional part thereof: *Provided*, That policies of reinsurance shall be exempt from the tax herein imposed by this paragraph.

(150) When the policies should be stamped as policies of insurance and not as bonds. (T. D. 20781.)

(151) Bonds of indemnity, and fidelity and guaranty insurance. (Vol. 3, Treas. Dec. (1900), Int. Rev. No. 15.)

PASSAGE TICKETS.

Passage ticket, for each passenger, sold in the United States for passage by any vessel to a foreign port or place, if costing not exceeding $30, $1; costing more than $30 and not exceeding $60, $3; costing more than $60, $5: *Provided*, That such passage tickets, costing $10 or less, shall be exempt from taxation.

(152) Revocation of ruling that tickets issued in Canada for passage on a vessel sailing from a United States port are not subject to stamp tax. (Vol. 2, Treas. Dec. (1898), No. 20004.)[1]

[1] This decision not applicable to new law in view of changes from act of June 13, 1898.

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(153) Members of foreign diplomatic corps are not required to pay tax on passage tickets by vessel from a port in the United States to a foreign port. (Vol. 2, Treas. Dec. (1898), No. 20196.)

(154) If one ticket only is issued, though it contains several names, only one stamp tax required. Circular 503, revised November 14, 1898.[1]

POWER OF ATTORNEY OR PROXY.

Power of attorney or proxy for voting at any election for officers of any incorporated company or association, except religious, charitable, or literary societies, or public cemeteries, 10 cents.

Power of attorney to sell and convey real estate, or to rent or lease the same, to receive or collect rent, to sell or transfer any stock, bonds, scrip, or for the collection of any dividends or interest thereon, or to perform any and all other acts not hereinbefore specified, 25 cents: *Provided*, That no stamps shall be required upon any papers necessary to be used for the collection of claims from the United States for pensions, back pay, bounty, or for property lost in the military or naval service.

(155) An instrument authorizing the secretary to transfer stock on the books of the company held not to be taxable as a power of attorney. (Vol. 2, Treas. Dec. (1899), No. 21467.)

(156) An instrument appointing an attorney in fact to transfer stock on the books of the company requires to be stamped as a power of attorney, but an instrument authorizing the secretary to make the transfer is held not to be a power of attorney. (Vol. 2, Treas. Dec. (1899), No. 21563.)

(157) Proxies—Contracts—Receipts—Sales of certificates of stock—Powers of attorney, etc. (T. D. 19700.)

(158) Where judgment notes, so called, contain a clause authorizing any attorney at law to confess judgment in favor of the holder of the note, such authorization *is held* to be a power of attorney, and taxable as such, in addition to the tax required on the judgment note as a promissory note. (Cir. No. 503, revised November 14, 1898.)

(159) Powers of attorney to sell or transfer Government bonds are taxable. (Cir. No. 503, revised November 14, 1898.)

PROTESTS.

Protests: Upon the protest of every note, bill of exchange, acceptance, check, or draft or any marine protest, whether protested by a notary public or by any other officer who may be authorized by the law of any State or States to make such protest, 25 cents.

No rulings found.

BERTHS AND SEATS IN SLEEPING OR PARLOR CARS.

Every seat sold in a palace or parlor car and every berth sold in a sleeping car, 1 cent to be paid by the company selling the same.

(T. D. 2052.)

Emergency revenue law—Stamp tax—Chewing gum.

The tax on chewing gum is based on the retail value, whether sold in small packages or in bulk, on and after December 1, 1914. The article must be retailed from stamped packages, whether sold over the counter or by means of a slot machine.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 5, 1914.

GENTLEMEN: Your letter dated the 2d instant, in which you make several inquiries relative to the stamp tax imposed on chewing gum as provided in the act of October 22, 1914, has been received.

[1] This decision not applicable to new law in view of changes from act of June 13, 1898.

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You state that you manufacture your products in several forms, and generally sell in bulk, in all manner of quantities, and at prices which vary considerably, such prices being based largely on the quantity sold, and that your goods are retailed over the counter and by means of slot machines. Also, that one form of gum produced and put out by you can be sold by the dealer from two to four pieces for a penny. This particular form of gum you state is sold generally in barrel lots.

In reply, you are informed that the act of October 22, 1914, imposes on you as manufacturer the duty of stamping your product, on and after December 1, 1914, in whatever manner it may be put up, at the rate of 4 cents for each $1 of its actual retail value. If the contents of a package should exceed $1 and be less than $2 in value, it should be stamped 8 cents, and similarly larger quantities in multiples of the initial tax. The law does not provide for stamping chewing gum valued at retail at less than $1 at any other rate than 4 cents.

Chewing gum may be sold at retail in small packages either over the counter or by means of a slot machine without the same being stamped, provided it is sold from the original stamped packages.

The law requires the manufacturer to stamp his product on a basis of its actual retail value. You state you can not control this price. Nevertheless, it is believed that no one is so competent as the manufacturer to determine the retail price or value of his products, and he will be held strictly responsible for due compliance with the statute. This retail price or value is a price such as a single package or other small quantity would be sold at to consumers at the place of manufacture.

In reply to your inquiry as to the meaning of section 21 of the act, you are informed that the provision that "every person, except as otherwise provided in this act, who offers or exposes for sale any article or thing provided for in said Schedule B * * * shall be deemed the manufacturer thereof, and shall be subject to all the taxes, liabilities, and penalties, etc.," refers to wholesalers and retailers who may have taxable goods on hand December 1, when the several articles enumerated in Schedule B must be stamped as provided therein. On and after December 1, the manufacturer is required to stamp his products before delivery on a sale; and such goods, if in possession of any other person, firm, or corporation on said date, must be stamped by such person, firm, or corporation, or, failing so to do, they will incur the liabilities and penalties denounced by the act.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Messrs. ——— ———.

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(T. D. 2053.)

Emergency revenue law— Wines, etc.

Relative to affixing and canceling stamps on containers of wines, cordials, liqueurs, and similar compounds.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 13, 1914.

SIR: Replying to your letter of the 9th instant, you are informed that the act of Congress approved October 22, 1914, imposing taxes upon wines, liqueurs, and cordials, is silent as to where such stamps must be affixed to the bottles or other containers. It is held, therefore, that these stamps must be affixed conspicuously to the bottles or other actual containers of the wines and cordials and must be canceled by the person affixing same, and that the initials of the person, as well as the date when affixed, must be written or stamped indelibly upon the adhesive stamp. When the bottle or other container to which the stamp is affixed is empty, the person emptying same must completely efface and obliterate the adhesive stamp or or stamps, as the case may be.

In reply to your second inquiry, this office is unable to state how bottles or other containers from which sales are made may be kept constantly filled and at the same time be stamped and the stamps be duly canceled in conformity with the law. Bottles from which wines and cordials are sold to consumers for immediate consumption must be stamped with properly canceled stamps, and when empty the stamps should be, as above stated, completely effaced and obliterated and new ones substituted therefor upon each refilling. It would seem, therefore, to be necessary to completely empty the bottles in order to comply with the law.

Respectfully,

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2054.)

Emergency revenue law—Certificates of deposit.

Certificates of deposit issued by banks not taxable under the act of October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 14, 1914.

SIR: In reply to your letter of the 11th instant, you are informed that under the internal-revenue act of October 22, 1914, stamps are not required to be affixed to certificates of deposit issued by banks.

Respectfully,

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

Mr. ——— ———.

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(T. D. 2055.)

Emergency revenue law—Discount on purchases of documentary stamps.

Postmasters and others authorized to be furnished stamps without prepayment not allowed discount unless stamps are paid for by them at the time.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 16, 1914.

To collectors of internal revenue:

You are informed that postmasters who buy from you and pay for the stamps issued under the internal-revenue act of October 22, 1914, are allowed a discount of 1 per cent on purchases amounting to $100 or more. If they are furnished with the stamps under bond without prepayment therefor they are not allowed the 1 per cent discount.

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

(T. D. 2056.)

Emergency revenue law—Power of attorney to transfer stock.

An instrument appointing an attorney in fact to transfer stock on the books of the company requires it to be stamped as a power of attorney, but an instrument authorizing the secretary to make the transfer is held not to be a power of attorney.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 14, 1914.

SIR: This office is in receipt of your letter of the 9th instant, asking for a ruling under Schedule A of the act of October 22, 1914. You make the following inquiry:

1. Does the tax of 25 cents imposed in Schedule A on powers of attorney to sell or transfer stock apply to the ordinary formal power of attorney to transfer on the books? In other words, is the sale and the transfer of the stock itself taxed separately?

If this so-called power of attorney on the back of the certificate simply authorizes the secretary of the company to transfer the same on the books of the company, it is held not to be a power of attorney within the meaning of the internal-revenue law. In that case the secretary of the corporation can not be said to be the agent or attorney for the transfer of stock, as the effect of the instrument is only to give the secretary authority to do an act which he is required to do by the by-laws of the organization when properly authorized, just as a cashier of a bank is required to pay a check when the check is properly signed and presented for payment. In that case, therefore, this

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instrument would only be taxable as a transfer of stock. An instrument appointing an attorney in fact to transfer stock on the books of the company will require stamp as a power of attorney.

Respectfully,

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2057.)

Annual inventories.

Annual inventories to be made by cigar and tobacco manufacturers and verified by collectors and their deputies.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 17, 1914.

To collectors of internal revenue:

Every manufacturer of tobacco or snuff and every manufacturer of cigars or cigarettes shall make a true inventory of the stock of tobacco materials, stamped and unstamped manufactured tobacco and *snuff*, or cigars and cigarettes, and attached and unattached internal-revenue stamps on hand in the factory on the 1st day of January of each year, and shall verify the same by his own oath, as provided in sections 3358 and 3390 of the Revised Statutes, respectively. These statutes also require that the collector (or his deputy) shall make personal examination of the stock sufficient to satisfy himself as to the correctness of the inventory, and shall verify the fact of such examination by oath to be indorsed on the inventory.

These inventories are important elements in settlement of manufacturers' accounts for the year or period. It is absolutely essential that the accuracy of an inventory shall not be questioned by a manufacturer when his accounts show deficiencies and he is, in consequence, called upon to show cause against assessment for omitted tax. *Each manufacturer shall see to it that a proper inventory of his factory is made, for the reason that such inventory having been sworn to by the manufacturer and verified under oath by a deputy collector, no claim of failure to include certain tobacco, made in response to a deficiency notice, will be entertained.* Therefore the following instructions in regard to making the required inventory must be observed:

(*a*) All tobacco material within the metes and bounds of the bonded factory premises, as described on Form 41½ posted in cigar factory and on Form 36 of tobacco factory shall be segregated into classes corresponding strictly with the headings provided therefor in Form 70a and Form 70b.

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(*b*) Each class of tobacco shall be weighed separately.

(*c*) Tobacco dust, siftings, sweepings, and waste which has accumulated in manufacturing shall not be included under any class of tobacco except under the head of "Waste," which is provided for in inventory Form 70b. The quantity of each of these by-products may there be shown separately.

(*d*) Inventory must include all unstemmed leaf tobacco debited on manufacturers' books and returns which is stored off the bonded factory premises for which outside storage permission has been granted.

(*e*) To enable the deputy collector to verify the inventory, a list should be made of each unopened hogshead, case, or bale, or other package of tobacco, with sufficient description for identification by the deputy, of all broken packages or loose tobacco within the factory, and of all unstemmed tobacco stored off the bonded premises, shall be made on the back of the inventory form or preserved on separate sheets of the same size and attached thereto.

(*f*) An accurate record should also be kept of the quantity of each class of tobacco (as inventoried) used in production between the time inventory is taken and the time the deputy calls to verify the same.

Collectors will instruct their deputies so to arrange their routes as to make these verifications at the earliest practicable date after January 1 next. In verifying an inventory each deputy collector—

1. Will see that each class of tobacco has been properly inventoried and instructions above observed.

2. Will determine from the quantities of each different kind of tobacco purchased, sold, and used between the date inventory was taken and the time of his verification as to the correctness of the inventory, and will require any necessary amendments before the manufacturer makes oath to same before him.

"Deficiencies found by examining officers" should be immediately reported to the collector, and shall be treated in accordance with the instructions under that head on page 60 of Regulations No. 8, revised July 1, 1910.

Upon receipt of these inventories, properly verified, collectors will prepare their abstracts on loose leaves Record 11 and Form 146 of the accounts of cigar and tobacco manufacturers in their districts for the year or period ending December 31, 1914, observing in such preparation instructions in T. D. 1726 and T-Mim-980, as modified by T-Mim-1006, and Treasury Decision No. 1479 and T-Mim-993, respectively, and will forward said accounts to this office as fast as they are completed, not later than 90 days from the 1st day of January, 1915. An account showing a deficiency should not be held until the tax on same is collected, but forwarded at once, after having made sure it is correctly stated. Formal notice to show cause will then be forwarded for service on the manufacturer.

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Collectors are hereby instructed to cause a copy of this circular, together with the necessary inventory blank, to be delivered to each manufacturer of tobacco, snuff, cigars, or cigarettes registered within their respective districts, not later than the 15th day of December next, for the taking of the required inventories on January 1, 1915.

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

(T. D. 2058.)

Emergency revenue law—Telegraph and telephone messages.

Law and instructions relative to the tax imposed on telegraph and telephone messages by the act of October 22, 1914, effective December 1, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 13, 1914.

The following provisions, effective December 1, 1914, relating to telegraph and telephone messages, are contained in Schedule A of the act "To increase the internal revenue, and for other purposes," approved October 22, 1914:

Telegraph and telephone messages: It shall be the duty of every person, firm, or corporation owning or operating any telegraph or telephone line or lines to make, within thirty days after the expiration of each month, a sworn statement to the collector of internal revenue in each of their respective districts, stating the number of dispatches, messages, or conversations originated at each of their respective exchanges, toll stations, or offices, and transmitted thence over their lines during the preceding month for which a charge of 15 cents or more was imposed, and for each of such messages or conversations the said person, firm, or corporation shall collect from the person paying for the message or conversation a tax of 1 cent in addition to the regular charges for the message or conversation, which tax the said person, firm, or corporation shall in turn pay to the said collector of internal revenue of their respective districts: *Provided*, That only one payment of said tax shall be required, notwithstanding the lines of one or more persons, firms, or corporations shall be used for the transmission of each of said messages or conversations: *Provided further*, That the messages or dispatches of the officers and employees of any telegraph or telephone company concerning the affairs and service of the company, and like messages or dispatches of the officials and employees of railroad companies sent over the wires on their respective railroads, shall be exempt from this requirement: *And provided further*, That messages of officers and employees of the Government on official business shall be exempt from the taxes herein imposed upon telegraphic and telephonic messages.

INSTRUCTIONS.

1. A company shall make one report and one return for the company as a whole and not for each of its exchanges and toll stations separately. Such report and return shall be made to the collector of internal revenue of the district in which the company's principal office is located.

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2. Every company shall include in its report all taxable messages originated by it without regard to the ownership of toll lines used in transmitting those messages. Telephone companies receiving messages to be retransmitted over the lines of a telegraph company or telegraph companies receiving messages to be retransmitted over the line of a telephone company will be regarded as the point where such messages originate. In such cases the company retransmitting such messages will not be required to include the same in its monthly return. Where, however, a message sent over a telephone line is received directly from the sender, the company receiving and transmitting the same will, in such case, be regarded as the point of origin, and will include all such taxable messages in its monthly return. A reversed message shall be considered as originating at the point of collection.

3. Reports and returns may be made by a company for its fiscal month or billing period to be filed within 30 days after expiration of fiscal month, provided full return is made for the period during which the tax is to be collected.

4. Additions may be made any month for errors on the previous month's reports and returns. Reductions covering items reported in excess in previous months not allowable. In such cases amended returns may be filed before assessment is made, otherwise claim for abatement or refund, as the case may be, should be filed.

5. Messages originating at automatic telephone stations, for each of which a charge of 15 cents or more was made, are subject to tax, and companies owning or operating such stations must include all such messages in their monthly returns. The method of collecting the tax from the senders of such messages is a matter wholly within the province of the companies receiving and transmitting the messages.

6. All overtime telephone messages, where the initial rate is less than 15 cents, but the total charge, on account of the overtime, brings the charge to 15 cents or more, are subject to tax.

7. Messages transmitted over private leased circuits and relating exclusively to the business for which the circuit was leased are held to be exempt from tax. Where, however, any such leased circuit is used for the transmission of messages other than above stated, return for all such messages for which a charge of 15 cents or more would ordinarily be made must be rendered monthly by the lessee.

8. Messages or dispatches of officers and employees of the company concerning the affairs and service of the company, and like messages or dispatches of officials and employees of railroad companies sent over the wires on their respective railroads, are exempt from tax. Franked messages, if of a private character, for which a charge of 15 cents or more would otherwise be charged, do not come within

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the exemption above referred to, and should be included in the return made.

9. Messages of officers and employees of the United States Government on official business and like messages of State officials are exempt from tax.

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2059.)

Emergency revenue law—Bills of lading.

It is the duty of the carrier to see that the stamp is duly affixed and canceled when the bill of lading is issued and delivered to the shipper.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 18, 1914.

SIR: This office is in receipt of your letter of the 14th instant, calling attention to the provision of the internal-revenue act of October 22, 1914, relative to bills of lading.

You inquire whether the whole duty of the railroad company is performed when it issues such bill of lading or whether it is the duty of the railroad company not only to issue the bill of lading but to refuse to accept the shipment until the shipper affixes the necessary internal-revenue stamp and cancels it as required by law.

In reply, you are informed that this matter has received consideration, and it is the opinion of this office that it is the duty of the railroad company to see that the stamp is duly affixed and canceled when the bill of lading is issued and delivered to the shipper.

In reply to your other inquiries in regard to messages sent over the lines on the railroad, you are informed that messages or dispatches of the officers or employees concerning the affairs and service of the company sent over the wires on their respective railroads are exempt. If they do not relate to the business of the company, the exemption does not apply.

Respectfully,

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

Mr. ——— ———.

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(T. D. 2060.)

Emergency revenue law—Stamp tax on deeds and mortgages.

Stamp required on bond accompanying a mortgage; stamp not required on certificate of officer taking acknowledgment of deeds and mortgages.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 20, 1914.

SIR: This office has received letters from parties in your district making inquiries in regard to stamp tax on deeds and mortgages under the internal-revenue act of October 22, 1914.

You are informed that a stamp is required upon the bond accompanying a mortgage. It comes under the provision for stamp tax of 50 cents on all bonds of any description, except such as may be required in legal proceedings. A stamp is not required upon the certificate of the officer taking acknowledgment of deeds and mortgages.

Respectfully,

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2061.)

Emergency revenue law—Special taxes—Tobacco dealers and manufacturers.

Regulations and information as to certain requirements of act of October 22, 1914, together with synopsis of decisions made under the act of June 13, 1898, which will be given weight in determining similar questions arising under the emergency revenue act of October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 10, 1914.

The act of October 22, 1914, imposes special taxes as follows:

TOBACCO DEALERS AND MANUFACTURERS.

SEC. 4. That on and after November first, nineteen hundred and fourteen, special taxes on tobacco dealers and manufacturers shall be and hereby are imposed annually as follows, the amount of such annual taxes to be computed in all cases on the basis of the annual sales for the preceding fiscal year:

Dealers in leaf tobacco whose annual sales or transfers do not exceed fifty thousand pounds shall each pay $6. Dealers in leaf tobacco whose annual sales or transfers exceed fifty thousand and do not exceed one hundred thousand pounds shall pay $12, and if their annual sales or transfers exceed one hundred thousand pounds shall pay $24: *Provided*, That dealers in leaf tobacco whose annual sales or transfers do not exceed one thousand pounds shall be exempt from the tax herein imposed on dealers in leaf tobacco.

Dealers in tobacco, not specially provided for in this section, whose annual receipts from the sale of tobacco exceed $200, shall each pay $4.80 for each store, shop, or other place in which tobacco in any form is sold.

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Every person whose business it is to sell, or offer for sale, manufactured tobacco, snuff, cigars, or cigarettes shall be regarded as a dealer in tobacco: *Provided*, That no manufacturer of tobacco, snuff, cigars, or cigarettes shall be required to pay a special tax as a dealer in manufactured tobacco, snuff, cigars, or cigarettes for selling his own products at the place of manufacture.

Manufacturers of tobacco whose annual sales do not exceed one hundred thousand pounds shall each pay $6.

Manufacturers of tobacco whose annual sales exceed one hundred thousand and do not exceed two hundred thousand pounds shall each pay $12.

Manufacturers of tobacco whose annual sales exceed two hundred thousand and do not exceed four hundred thousand pounds shall each pay $24.

Manufacturers of tobacco whose annual sales exceed four hundred thousand and do not exceed one million pounds shall each pay $60.

Manufacturers of tobacco whose annual sales exceed one million and do not exceed five million pounds shall each pay $300.

Manufacturers of tobacco whose annual sales exceed five million and do not exceed ten million pounds shall each pay $600.

Manufacturers of tobacco whose annual sales exceed ten million and do not exceed twenty million pounds shall each pay $1,200.

Manufacturers of tobacco whose annual sales exceed twenty million pounds shall each pay $2,496.

Manufacturers of cigars whose annual sales do not exceed one hundred thousand cigars shall each pay $3.

Manufacturers of cigars whose annual sales exceed one hundred thousand and do not exceed two hundred thousand cigars shall each pay $6.

Manufacturers of cigars whose annual sales exceed two hundred thousand and do not exceed four hundred thousand cigars shall each pay $12.

Manufacturers of cigars whose annual sales exceed four hundred thousand and do not exceed one million cigars shall each pay $30.

Manufacturers of cigars whose annual sales exceed one million and do not exceed five million cigars shall each pay $150.

Manufacturers of cigars whose annual sales exceed five million and do not exceed twenty million cigars shall each pay $600.

Manufacturers of cigars whose annual sales exceed twenty million and do not exceed forty million cigars shall each pay $1,200.

Manufacturers of cigars whose annual sales exceed forty million cigars shall each pay $2,496.

Manufacturers of cigarettes whose annual sales do not exceed one million cigarettes shall each pay $12.

Manufacturers of cigarettes whose annual sales exceed one million and do not exceed two million cigarettes shall each pay $24.

Manufacturers of cigarettes whose annual sales exceed two million and do not exceed five million cigarettes shall each pay $60.

Manufacturers of cigarettes whose annual sales exceed five million and do not exceed ten million cigarettes shall each pay $120.

Manufacturers of cigarettes whose annual sales exceed ten million and do not exceed fifty million cigarettes shall each pay $600.

Manufacturers of cigarettes whose annual sales exceed fifty million and do not exceed one hundred million cigarettes shall each pay $1,200.

Manufacturers of cigarettes whose annual sales exceed one hundred million cigarettes shall each pay $2,496.

In arriving at the amount of license tax to be paid hereunder, and in the levy and collection of such tax, each person, firm, or corporation engaged in the manufacture of cigars, cigarettes (including little cigars), or tobacco shall be considered and deemed a single manufacturer.

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And every person who carries on any business or occupation for which special taxes are imposed by this act, without having paid the special tax herein provided, shall, besides being liable to the payment of such special tax, be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than $500, or be imprisoned not more than six months, or both, at the discretion of the court: *Provided*, That the special taxes imposed by this act and payable during the special tax year ending June 30, 1916, shall be collected and paid proportionately for the period during which such taxes shall remain in force during said year.

SEC. 23. That all administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this act, and every person, firm, company, corporation, or association liable to any tax imposed by this act, or for the collection thereof, shall keep such records and render, under oath, such statements and returns, and shall comply with such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe, and every such person, firm, company, corporation, or association who evades or attempts to evade any of the taxes imposed by this act, or shall fail to truly account for and pay all taxes collected by them under this act, or any regulations issued thereunder, shall be subject to a penalty of double the amount of the taxes evaded or attempted to be evaded or unlawfully withheld, to be assessed and collected as other penalties incurred under internal-revenue laws are assessed and collected.

In answer to numerous inquiries, the following information as to certain requirements of the act of October 22, 1914, is given:

The law provides that each person, firm, or corporation engaged in the manufacture of cigars, cigarettes (including little cigars), or tobacco shall be considered and deemed a single manufacturer.

Each manufacturer of cigars therefore is required to pay but one special tax at the appropriate rate, no matter how many factories are operated under his exclusive ownership and control. Ownership by one corporation manufacturing cigars, cigarettes, or tobacco of a part or all of the stock of another corporation, also bonded as a manufacturer, is not exclusive ownership or control of the latter, which is a separate legal entity and must pay a separate special tax.

A corporation which is engaged in the manufacture of cigars and also of cigarettes or tobacco must pay a separate special tax as manufacturer of cigars and as manufacturer of cigarettes or as manufacturer of tobacco, or both, as the case may be.

For the purposes of calculating the rate of tax under this act, all tobacco cigarettes, commonly known as "little cigars," are rated as cigarettes.

Where more than one factory or branch is operated by the same manufacturer, the special tax shall be paid to the collector of the district where the principal factory or place of business is located, and the special tax stamp will be posted at such factory or place of business. The collector issuing the special-tax stamp will also issue as many certificates that the tax has been duly paid to him as may be necessary to cover each factory operated by the taxpayer, and one of such certificates must be posted in a conspicuous

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place at each of such factories. In making return for special tax the manufacturer will file a sworn statement of production, including all factories or branches, for the preceding fiscal year. The return should state separately the factory number, district, and State as to each factory operated, the output of each factory, and the aggregate output of all factories upon which the special tax is calculated.

The law provides that the amount of the annual taxes is to be computed in all cases on the basis of the annual sales of the preceding fiscal year, and the basis of computation is the total sales during the year, whether business is conducted during the whole or only a part of the year.

Dealers or manufacturers who were not engaged in such business during the preceding fiscal year must procure special-tax stamps before commencing business. The special-tax stamp purchased at the commencement of business may be of such grade as, in the opinion of the dealer or manufacturer, may be required to cover his business for the fiscal year, but when the limit of sales allowed under such stamp is reached, the dealer or manufacturer must procure a stamp of a higher grade, so that his liability to special tax on the basis of sales as provided by law will at all times be covered.

Peddlers of tobacco, whose annual receipts exceed $200, are liable to special tax at the rate of $4.80 per annum. The special-tax stamp in such cases, like special-tax stamps for dining cars, will cover sales made in the United States and should be carried by the peddler on his person, or posted in his wagon or other conveyance, if he has one.

Return for register, Form 277, should be made and certificate of registry should be issued *only* in the case of dealers in leaf tobacco, including retail dealers in leaf tobacco, whose sales do not exceed 1,000 pounds and who are exempt from special tax.

Dealers in tobacco and dealers in leaf tobacco, including retail dealers in leaf tobacco claiming exemption from special tax under the provisions of this act, will be required to establish same under oath.

Attached hereto is published for the guidance and information of all concerned a synopsis of decisions made under the act of June 13, 1898, which will be given considerable weight in determining similar questions arising under the present act.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(1) A manufacturer of tobacco or cigars can not sell at retail at place of manufacture. (16 Op. Atty. Gen., 89; 24 Int. Rev. Rec., 227; Crisp *v.* Proud, 24 *ibid.*, 340; Ludloff *v.* United States, 108 U. S., 176; 29 Int. Rev. Rec., 125.)

(2) Special tax liability of a person buying leaf tobacco exclusively for export by himself. (T. D. 28.)

(3) Liability to special tax of tobacco dealers and manufacturers under the act of June 13, 1898. (T. D. 138.)

(4) As to the penalty for failure to make return on Form 11 of special taxes incurred (T. D. 19748.)

(5) Manufacturers can not pack goods of another factory on goods made at their own factory. Manufacturers selling their own products at place of manufacture not required to pay special tax as dealers in tobacco. Manufacturers are not permitted to pack stamped packages of smoking tobacco or stamped caddies of plug tobacco between the chime and the head or bottom of such packages. (T. D. 19765.)

(6) Dealers in leaf tobacco who improperly qualify as manufacturers of cigars for the purpose of dealing in cigar cuttings, and who made no cigars last year, are not liable to special tax as manufacturers of cigars, but such persons will be required to close their business as cigar manufacturers and may qualify as manufacturers of tobacco. (T. D. 19801.)

(7) Dealers in leaf tobacco, and manufacturers of tobacco or cigars, who were not engaged in business last fiscal year, required on commencing business to pay minimum rate of special tax, and when sales during the year reach an amount requiring payment of higher rate, will make return and pay tax at the higher rate. (T. D. 19822.)

(8) Persons who have qualified as manufacturers of tobacco for the sole purpose of handling and dealing in stems, refuse scraps, cuttings, clippings, and sweeping of tobacco are required to register and pay the minimum rate of special tax imposed on manufacturers of tobacco. (T. D. 19844.)

(9) Manufacturers of tobacco, snuff, or cigars may, under special permit, * * * sell stemmed or unstemmed leaf tobacco to other qualified manufacturers of tobacco, snuff, or cigars without being required to register and pay special tax as dealers in (leaf) tobacco. Special permits are only granted when it is ascertained that the manufacturer has material on hand which he finds not suitable for his business. (T. D. 19876.)

(10) A farmer who sells and delivers leaf tobacco of his own raising is not required to make return or pay special tax as dealer in leaf tobacco. (T. D. 19962.)

(11) Auction sales of tobacco in warehouses, or at "tobacco breaks," subject to tax same as upon sales of "any products or merchandise at any exchange or board of trade, or other similar place." (T. D. 19972.)

(12) No provision of law by which a special-tax stamp issued to one person can be transferred to and made use of by any other person, except in the single instance of the death of the special-tax payer, expressly provided for by section 3241, Revised Statutes. (T. D. 20153.)

(13) Where farmer or producer brings product to market and sells it in his own name through an auctioneer, the sales will come within the scope of a sale made at an auction house, and stamp tax and memorandum of sale is not required. (T. D. 20236.)

(14) Under existing law the farmer or grower of tobacco has the right to sell tobacco of his own growth and raising to any person and in any quantity which may be desired, provided its condition has not been changed in any manner. This is a personal privilege and can not be delegated by him to another person. The farmer can not employ another person to travel from place to place to sell and deliver tobacco to consumers, nor has he the right to place the tobacco in the hands of another person to be sold for him to consumers, but he may place it in the hands of a qualified dealer in leaf tobacco to be sold on commission to other qualified dealers, or to manufacturers of

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tobacco or cigars, or to persons who buy leaf tobacco in packages for export. (T. D. 20482.)

(15) Warehousemen who sell leaf tobacco on commission are required to pay special tax as leaf tobacco dealers; and if they neither acquire possession of, nor right or title to, leaf tobacco, which they sell on commission as agents for others, they must also pay special tax as commercial brokers. (T. D. 20603.)

(16) A manufacturer purchasing large quantities of leaf tobacco, exceeding the demands of his factory, for the purpose of reselling his surplus to other manufacturers, must be regarded as engaged in and carrying on the business of a dealer in leaf tobacco, and will be required to make return and pay special tax as dealer in leaf tobacco at some place not connected with the factory. (T. D. 20605.)

(17) Dealers in leaf tobacco who have several warehouses at which they receive tobacco, and from which the same is delivered to the purchaser, required to pay special tax at each place. (T. D. 20638.)

(T. D. 2062.)

Emergency revenue law—Stamp taxes.

Stamp tax on bonds and policies of insurance.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 20, 1914.

SIR: This office is in receipt of your letter of the 19th inst., in regard to the stamp tax on bonds and policies of insurance under Schedule A, act of October 22, 1914, effective December 1. The ruling of this office is as follows:

The act aforesaid, under the designation of "bond," specifies that a bond—

For indemnifying any person or persons, firm, or corporation who shall have become bound or engaged as surety for the payment of any sum of money, or for the due execution or performance of the duties of any office or position, and to account for money received by virtue thereof, and all other bonds of any description, except such as may be required in legal proceedings, not otherwise provided for in this schedule, 50 cents.

Had Congress made no other provision for the taxation of bonds except in the language here quoted, every bond, in its broadest term, would have been subject to but one tax fixed specifically at 50 cents.

Following this, however, and under the head of "Insurance," the law says:

Each policy of insurance, or bond, or obligation of the nature of indemnity for loss, damage, or liability issued, or executed, or renewed by any person, association, company, or corporation, transacting the business of fidelity, employer's liability, * * * or other branch of insurance, * * * and each bond undertaking or recognizance, conditioned for the performance of the duties of any office or position, or for the doing or not doing of anything therein specified, or other obligation of the nature of indemnity, * * * upon the amount of premium charged, one-half of 1 cent on each dollar or fractional part thereof.

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There appears to be no ambiguity or difficulty of interpretation or reconciliation of the two provisions of this act.

First. Every bond of every description and kind, in its broadest sense and meaning, without regard to its form, where sureties are added, for indemnifying any person or corporation, government or otherwise, is subject to the 50 cent tax if the sureties consist of any person, corporation, or other entity, except "persons, companies, or corporations transacting the business of fidelity, etc., insurance."

Second. If the sole surety or sureties upon "any bond undertaking, recognizance" of any character, kind or description, "conditioned for the performance of the duties of any office or position, or for the doing or not doing of anything therein specified, or other obligation of the nature of indemnity" is executed or guaranteed by any liability, fidelity, or guaranty or surety company, the tax upon the amount of premium charged is one-half of 1 cent on each dollar or fractional part thereof, and no other tax of any character or kind is required to be paid upon such bond, undertaking, agreement, or clause made for the purpose of indemnifying any person, Government, or any other thing.

This office will not be governed by any interpretation, regulation, or ruling of construction on this subject made under the similar provisions of the war revenue act of 1898 inconsistent with the above.

Respectfully,

ROBT. WILLIAMS, Jr.,
Acting Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2063.)

Emergency revenue law—Perfumery, cosmetics, etc.

Regulations relative to perfumery, cosmetics, chewing gum, etc., taxable under Schedule B, act October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 9, 1914.

To internal revenue officers and others concerned:

The following are the provisions of law specially applicable to the articles taxed under schedule B of the act of October 22, 1914, together with the regulations promulgated under the authority granted in the act.

PROVISIONS OF THE LAW.

ADHESIVE STAMPS.

SEC. 5. That on and after the first day of December, nineteen hundred and fourteen, * * * there shall be levied, collected, and paid, for and in respect to the

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preparations, matters, and things mentioned and described in Schedule B of this act, manufactured, sold, or removed for sale, the several taxes or sums of money set down in words or figures against the same, respectively, or otherwise specified or set forth in Schedule B of this act.

SEC. 8. That in any and all cases where an adhesive stamp shall be used for denoting any tax imposed by this act, except as hereinafter provided, the person using or affixing the same shall write or stamp thereupon the initials of his name and the date upon which the same shall be attached or used, so that the same may not again be used. And if any person shall fraudently make use of an adhesive stamp to denote any tax imposed by this act without so effectually canceling and obliterating such stamp, except as before mentioned, he, she, or they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $500, or be imprisoned not more than six months, or both, at the discretion of the court: *Provided, That instead of cancellation by initials and date, the stamps on the articles enumerated in Schedule B shall be so affixed on the box, bottle, or package that in opening the same or using the contents thereof, the said stamp shall be effectually destroyed; and in default thereof the party making default shall be liable to the same penalty imposed for neglect to affix said stamp as hereinbefore prescribed in this act.*

SEC. 16. That all the provisions of this act relating to dies, stamps, adhesive stamps, and stamp taxes shall extend to and include (except where manifestly inapplicable) all the articles or objects enumerated in Schedule B, subject to stamp tax, and apply to the provisions in relation thereto.

SEC. 17. That on and after December first, nineteen hundred and fourteen, any person, firm, company, or corporation that shall make, prepare, and sell, or remove for consumption or sale, perfumery, cosmetics, preparations, compositions, articles, or things upon which a tax is imposed by this act, as provided for in Schedule B, without affixing thereto an adhesive stamp or label denoting the tax before mentioned shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than $500, or be imprisoned not more than six months, or both, at the discretion of the court.

SEC. 18. That any manufacturer or maker of any of the articles for sale mentioned in Schedule B, after the same shall have been so made, and the particulars hereinbefore required as to stamps have been complied with, or any other person who shall take off, remove, or detach, or cause, or permit, or suffer to be taken off, or removed or detached, any stamp, or who shall use any stamp, or any wrapper or cover to which any stamp is affixed, to cover any other article or commodity than that originally contained in such wrapper or cover, with such stamp when first used, with the intent to evade the stamp duties, shall for every such article, respectively, in respect of which any such offense shall be committed, be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than $500, or be imprisoned not more than six months, or both, at the discretion of the court, and every such article or commodity as aforesaid shall also be forfeited.

SEC. 19. That any maker or manufacturer of any of the articles or commodities mentioned in Schedule B, as aforesaid, or any other person who shall sell, send out, remove, or deliver any article or commodity, manufactured as aforesaid, before the tax thereon shall have been fully paid by affixing thereon the proper stamp, as in this act provided, or who shall hide or conceal, or cause to be hidden or concealed, or who shall remove or convey away, or deposit, or cause to be removed or conveyed away from or deposited in any place, any such article or commodity, to evade the tax chargeable thereon, or any part thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than $500, or be imprisoned not more than six months, or both, at the discretion of the court, together with the forfeiture of any such article or commodity: *Provided*, That articles upon which stamp taxes are required by this act may, when intended for exportation, be manufactured

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and sold or removed without having stamps affixed thereto, and without being charged with tax as aforesaid; and every manufacturer or maker of any article as aforesaid, intended for exportation, shall give such bonds and be subject to such rules and regulations to protect the revenue against fraud as may be from time to time prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

SEC. 20. That every manufacturer or maker of any of the articles or commodities provided for in Schedule B, or his foreman, agent, or superintendent shall at the end of each and every month make, sign, and file with the collector of internal revenue for the district in which he resides a declaration in writing that no such article or commodity has, during such preceding month or time when the last declaration was made, been removed, or carried, or sent, or caused or suffered or known to have been removed, carried, or sent from the premises of such manufacturer or maker other than such as have been duly taken account of and charged with the stamp tax, on pain of such manufacturer or maker forfeiting for every refusal or neglect to make such declaration $100; and if any such manufacturer or maker, or his foreman, agent, or superintendent, shall make any false or untrue declaration, such manufacturer or maker, or foreman, agent, or superintendent making the same shall be deemed guilty of a misdemeanor, and upon conviction shall pay a fine of not more than $500, or be imprisoned not more than six months, or both, at the discretion of the court.

SEC. 21. That the stamp taxes prescribed in this act on the articles provided for in Schedule B shall attach to all such articles and things sold or removed for sale thirty days after the approval of this act.[1] Every person, except as otherwise provided in this act, who offers or exposes for sale any article or thing provided for in said Schedule B, whether the article so offered or exposed is of foreign manufacture and imported or of domestic manufacture, shall be deemed the manufacturer thereof, and shall be subject to all the taxes, liabilities, and penalties imposed by law for the sale of articles without the use of the proper stamp denoting the tax paid thereon; and all such articles of foreign manufacture shall, in addition to the import duty imposed on the same, be subject to the stamp tax prescribed in this act: *Provided further*, That internal revenue stamps required by existing law on imported merchandise shall be affixed thereto and canceled at the expense of the owner or importer before the withdrawal of such merchandise for consumption, and the Secretary of the Treasury is authorized to make such rules and regulations as may be necessary for the affixing and canceling of such stamps, not inconsistent herewith.

SEC. 22. That the Commissioner of Internal Revenue shall cause to be prepared and distributed for the payment of the taxes prescribed in this act suitable stamps denoting the tax on the document, article, or thing to which the same may be affixed, and he is authorized to prescribe such method for the cancellation of said stamps, as substitute for or in addition to the method provided in this act, as he may deem expedient. * * * That the adhesive stamps used in the payment of the tax levied in Schedule * * * B of this act shall be furnished for sale by the several collectors of internal revenue, who shall sell and deliver them at their face value to all persons applying for the same, except officers or employees of the Internal-Revenue Service: *Provided*, That such collectors may sell and deliver such stamps in quantities of not less than $100 of face value, with a discount of one per centum, except as otherwise provided in this act.

Perfumery and cosmetics and other similar articles: For and upon every packet, box, bottle, pot, phial, or other inclosure containing any essence, extract, toilet water, cosmetic, vaseline, petrolatum, hair oil, pomade, hair dressing, hair restorative, hair

[1] The act is elsewhere amended to read "on and after December first, 1914." It is therefore held that the law is in effect on and after Dec. 1, 1914.

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dye, tooth wash, dentifrice, tooth paste, aromatic cachous, or any similar substance or article, by whatsoever name the same heretofore have been, now are, or may hereafter be called, known, or distinguished, used, or applied as perfumes or as cosmetics, and sold or removed for consumption and sale in the United States, where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall not exceed at the retail price or value the sum of 5 cents, one-eighth of 1 cent.

Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of 5 cents, and shall not exceed the retail price or value of 10 cents, two-eighths of 1 cent.

Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of 10 cents and shall not exceed the retail price or value of 15 cents, three-eighths of 1 cent.

Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of 15 cents and shall not exceed the retail price or value of 25 cents, five-eighths of 1 cent. And for each additional 25 cents of retail price or value or fractional part thereof in excess of 25 cents, five-eighths of 1 cent.

Chewing gum or substitutes therefor: For and upon each box, carton, jar, or other package containing chewing gum of not more than $1 of actual retail value, 4 cents; if exceeding $1 of retail value, for each additional dollar or fractional part thereof, 4 cents; under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

That all articles and preparations provided for in this schedule which are in the hands of manufacturers or of wholesale or retail dealers on and after December first, nineteen hundred and fourteen, shall be subject to the payment of the stamp taxes herein provided for, but it shall be deemed a compliance with this act as to such articles on hand in the hands of wholesale or retail dealers as aforesaid who are not the manufacturers thereof to affix the proper adhesive tax stamp at the time the packet, box, bottle, pot, or phial, or other inclosure with its contents is sold at retail.

There shall be an allowance of drawback on articles mentioned in Schedule B of this act on which any internal-revenue tax shall have been paid, equal in amount to the stamp tax paid thereon, and no more, when exported, to be paid by the warrant of the Secretary of the Treasury on the Treasurer of the United States, out of any money arising from internal taxes not otherwise appropriated: *Provided*, That no allowance or drawback shall be made for any such articles exported prior to the date this act becomes effective. The evidence that any such tax has been paid as aforesaid shall be furnished to the satisfaction of the Commissioner of Internal Revenue by the person claiming the allowance of drawback, and the amount shall be ascertained under such regulations as shall be prescribed from time to time by said commissioner, with the approval of the Secretary of the Treasury.

Regulations.

PERFUMERY, COSMETICS, AND OTHER SIMILAR ARTICLES.

These include all perfumeries, eau de cologne, and all other scented waters; pastilles and all scented powders, papers, medallions, aromatic cachous, or other materials used to impart their odor to the breath, the air, or other substances; all cosmetics, lotions, and powders for beautifying, restoring, improving, or preserving the skin, hair, mouth, teeth, nails, or other parts of the body.

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Articles under the head of perfumes and cosmetics are taxable under the statute, regardless of the style or manner in which they are put up and sold. It is immaterial how they are labeled, recommended, or advertised, or whether they are labeled at all, so long as they are known to come within the provisions of the law.

BULK PACKAGES.

Articles subject to stamp tax under Schedule B are equally liable to stamp tax when sold in what are termed bulk packages as when sold in retail packages, and the value of the stamp or stamps to be affixed must correspond with and be proportionate to the price of a single retail package.

Dealers may retail directly to the consumer from such bulk packages as have been properly stamped by the manufacturer or importer, drawing from the same in quantities to suit their customers without any additional stamping, but the stamps attached to such bulk packages will only protect the original contents.

If bulk packages are broken up by the dealer drawing off the contents into smaller vessels to be put upon his shelves, or otherwise kept for future sales, the contents so drawn off thereby ceases to be identified with the stamped package in which they were originally put up by the manufacturer or sold by the importer, and such contents so put up become liable to seizure if stamps are not affixed to them.

The contents of bulk packages, liable to tax under Schedule B, which were in the hands of retailers on the 1st day of December, 1914, and therefore unstamped, must be stamped when sold at retail from said packages proportionately to the retail price of the whole package.

UNCLARIFIED PETROLATUM AND OTHER INCOMPLETE MANUFACTURES SHIPPED IN BULK.

While the act specifically provides that the stamp taxes shall apply to petrolatum, it is held to be the intent of the statute to impose the tax mainly upon the clarified product. The unclarified is an unfinished product requiring to be treated with heat and otherwise manipulated before it will be accepted by manufacturing druggists as a basis for various ointments, or drawn off into small packages and sold as vaseline, and may be shipped in bulk without stamps.

If, however, the unclarified, unfinished petrolatum is sold for use by consumers, either at wholesale or retail, it is liable to the stamp tax at the same rate as the finished product.

Many articles which ultimately become taxable are not so when they are first removed from the manufacturing chemist's laboratory, but are incomplete manufactures, the process of manufacture not being completed until they are bottled, labeled, or otherwise placed in a salable condition.

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This regulation particularly applies to articles manufactured for dealers, to be bottled, packed, and labeled by them, and sold under their own names, when it becomes the duty of the dealers who pack and sell the goods under their own names and not the manufacturers, to affix the tax stamps due.

SOAPS.

Soaps are ordinarily either laundry or toilet articles. They may, however, and do become cosmetic articles, whenever the manufacturer or vendor holds them out and recommends them to the public for the softening and beautifying effects produced by their use upon the hair, mouth, skin, or complexion. In other words, whenever the manufacturer or vendor takes them out of the category of laundry or toilet articles and places them in the category of cosmetic articles, he must stamp them according to the provisions of Schedule B.

SAMPLES.

Samples of perfumery and cosmetics, taxable under Schedule B, may be removed from the place of manufacture for free distribution, without stamps or payment of tax.

Every sample so removed, however, must have legibly *printed* thereon the following notice:

This is a free sample removed from the factory for gratuitous distribution. Any person selling or exposing for sale this sample, unstamped, at any time will be liable to all the pains and penalties of the law denounced against persons selling, or exposing for sale, unstamped articles taxable under Schedule B.

But where, owing to the minute size of the sample, the above prescribed cautionary notice can not be legibly and neatly printed and affixed thereto, the following may be substituted:

Free sample. Penalty for sale, $500.

Where several small free samples are packed together in a box, the whole being given as an entirety, it will be sufficient if the free sample label is placed upon the box.

CHEWING GUM.

On and after December 1, 1914, stamps must be affixed by the maker or manufacturer to packages of chewing gum or substitutes therefor before the same are removed from the factory for consumption or sale.

Stamps of the denomination of 4 cents have been provided for the payment of this tax. When packages exceed $1 of retail value the manufacturer shall affix additional stamp or stamps to cover the amount of tax due on such packages.

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There shall be affixed to each and every box, carton, jar, or other package, containing chewing gum, before its removal from the factory, a label, on which shall be printed in plain, legible letters, the number of small tablets, 1-cent packages, or other small packages of chewing gum contained therein, and the retail price of each such tablet or small package of gum, in form as follows:

100 1-cent packages, retail value	$1.00
20 packages, 2 for 5 cents, retail price	.50
60 packages, 3 for 5 cents, retail price	1.00
12 packages, 5 cents each	.60

There shall also be affixed to each package a label, upon which shall be printed in plain and legible letters the manufacturer's name, with town or city address, and the number of district and the State in which the factory is located, for example: "John Doe, Manufacturer, Philadelphia, First District of Pennsylvania." These labels may be printed on the boxes or cartons if preferred.

Samples for salesmen, or for mailing, or for free distribution, shall be taken only from packages which have been duly stamped and shall be marked as provided elsewhere in these regulations.

The stamps on emptied packages will be destroyed.

When chewing gum and cachous are to be sold through automatic vending or selling machines, the same are to be kept in the regularly stamped boxes, packages, or containers until placed in the machines, when the stamps shall be destroyed. The chewing gum and cachous shall be securely locked in the machine and shall not be removed therefrom except through the regular aperture controlled by the mechanism.

ARTICLES ON HAND, DECEMBER 1, 1914.

The statute governing this matter is as follows:

> That all articles and preparations provided for in this schedule which are in the hands of manufacturers or of wholesale or retail dealers on and after December 1, 1914, shall be subject to the payment of the stamp taxes herein provided for, but it shall be deemed a compliance with this act as to such articles on hand in the hands of wholesale or retail dealers, as aforesaid, who are not the manufacturers thereof to affix the proper adhesive tax stamp at the time the packet, box, bottle, pot, or phial, or other inclosure with its contents is sold at retail.

Under this provision it is held that articles liable to tax in the hands of a retail dealer who is not the manufacturer thereof, December 1, 1914, must be stamped by such retail dealer when he sells them at retail.

Articles liable to tax in the hands of wholesale dealers who are not the manufacturers thereof on and after December 1, 1914, may be sold by such wholesale dealer to other wholesale dealers or to retail dealers without stamping the same, the obligation to stamp being limited to sales at retail.

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All articles in the hands of manufacturers on said date liable to tax must be stamped before removal from the place of manufacture.

RETAIL PRICE.

Dealers, in stamping articles on hand December 1, 1914, when sold at retail, must adhere to the normal retail price and stamp the article accordingly, and not according to some "cut price." Where a price is printed or stamped on the article or container, that will be considered as the normal retail price.

The manufacturer or importer shall pay the tax upon the normal retail price or value of the taxable articles under Schedule B manufactured or imported by him, and affix the corresponding adhesive stamps to the same before removal from the place of manufacture or importation. This duty is imposed on the manufacturer or importer by law, and he will be held strictly responsible for a due compliance with the statute.

This retail price or value is a price such as a single package or other small quantity would be normally sold at to consumers at the place of manufacture or importation. If the manufacturer pays the tax upon the retail price in good faith according to this rule, he need apprehend no complaint if at different times and in different *places* the article is retailed for a greater or less sum than denoted by the stamps affixed thereto.

Five cents being the lowest retail price mentioned in Schedule B, taxable articles retailing for a less sum may be packed together under one wrapper, band, or other inclosure, when the retail price of said package shall not in the aggregate exceed 5 cents, and a stamp of the value of one-eighth of one cent shall be affixed to the outside band or wrapper, or other inclosure, in such a manner that the stamp shall be wholly destroyed in opening it. In such cases each subpackage shall have printed thereon the words: "Sold from a duly stamped package."

AFFIXING STAMPS.

Section 8 provides that instead of cancellation by initials and date, the stamps on the articles enumerated in Schedule B shall be so affixed on the box, bottle, or package that in opening the same or using the contents thereof the said stamp shall be effectually destroyed, but section 22 authorizes the Commissioner of Internal Revenue to prescribe such method of cancelling stamps as he may deem expedient in lieu of the method provided in the act. In pursuance of this requirement, where articles are sold to the public in boxes, bottles, tins, or other similar packages without any other covering, the stamp shall be so affixed to the box, bottle, tin, or other package of such character that in opening the same the stamp will be destroyed.

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Where the boxes, bottles, tins, or other containers are usually offered to the public in wrappers or cartons, the stamp shall be affixed in such manner as to seal the wrapper or carton. In case of double-end cartons, the stamps shall be affixed to the top end lapping over on the side.

There are some articles not usually offered to the public in cartons, containing patent stoppers, etc., which make it impossible to affix a stamp in the manner provided by law. Where it is clearly impracticable to affix the stamp so that it will be destroyed in using the contents, the stamp may be affixed upon one side or the bottom of the bottle.

Where articles subject to tax are usually displayed for sale in fancy or expensive outer cases or containers to which it is impossible without marring the container to affix the stamp in such manner as to break it on opening, the stamp may be affixed in such place as will not mar the appearance of the container.

Where articles are usually offered for sale in small containers mounted on cards, the stamp covering all articles affixed may be attached to the card.

Where several articles, all taxable or some taxable and some untaxable, are packed together for sale as entireties, the stamp covering the tax on the taxable contents may be placed on the container.

In all cases where the stamps are not so affixed as to be broken when the container is opened, the stamp shall be canceled with the initials of the manufacturer and the month and year.

MANUFACTURER'S STATEMENTS.

At the end of each and every month, the manufacturer or maker or packer for distribution of any of the articles or commodity provided for in Schedule B must make a declaration as provided in section 20 of the act as follows:

That every manufacturer or maker of any of the articles or commodities provided for in Schedule B, or his foreman, agent, or superintendent shall at the end of each and every month make, sign, and file with the collector of internal revenue for the district in which he resides a declaration in writing that no such article or commodity has, during such preceding month or time when the last declaration was made, been removed or carried, or sent, or caused or suffered or known to have been removed, carried, or sent from the premises of such manufacturer or maker other than such as have been duly taken account of and charged with the stamp tax, on pain of such manufacturer or maker forfeiting for every refusal or neglect to make such declaration $100; and if any such manufacturer or maker, or his foreman, agent, or superintendent, shall make any false or untrue declaration, such manufacturer, or maker, or foreman, agent, or superintendent making the same shall be deemed guilty of a misdemeanor, and upon conviction shall pay a fine of not more than $500, or be imprisoned not more than six months, or both, at the discretion of the court.

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ARTICLES EXPORTED WITHOUT STAMPING, AND DRAWBACK ON STAMPED ARTICLES EXPORTED.

Articles liable to tax under Schedule B, when intended for exportation, may be manufactured and sold or removed without having the stamps affixed thereto and without being charged with tax as aforesaid, by giving bond and complying with regulations to be provided by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury. See section 19, act of October 22, 1914. An allowance of drawback on articles mentioned in Schedule B, which have already been stamped and afterwards exported, is allowed by the last paragraph of Schedule B, reading as follows:

There shall be an allowance of drawback on acticles mentioned in Schedule B of this act on which any internal-revenue tax shall have been paid, equal in amount to the stamp tax paid thereon and no more, when exported, to be paid by the warrant of the Secretary of the Treasury on the Treasurer of the United States, out of any money arising from internal taxes not otherwise appropriated: *Provided*, That no allowance of drawback shall be made for any such articles exported prior to the date this act becomes effective. The evidence that any such tax has been paid as aforesaid shall be furnished to the satisfaction of the Commissioner of Internal Revenue by the person claiming the allowance of drawback, and the amount shall be ascertained under such regulations as shall be prescribed from time to time by said commissioner, with the approval of the Secretary of the Treasury.

Regulations made in pursuance of the foregoing provisions will be furnished to parties interested, on application to collectors of internal revenue.

IMPORTED ARTICLES.

All perfumeries, cosmetics, chewing gum, etc., imported from foreign countries are liable to the stamp tax as similar articles of domestic manufacture, in addition to the import duty on the same, and the stamps must be affixed by the owner or importer before the same are sold or offered for sale, and affixed in the same manner, upon every packet, box, bottle, phial, or other inclosure containing the same.

No exception is made in this respect for articles sold in original and unbroken packages in which the bottles or other inclosures were packed by the manufacturer before the importation. All such must be unpacked for the purpose of stamping the primary package. Importers may, however, supply manufacturers abroad with internal-revenue stamps to be there affixed to the respective articles before shipment.

COLLECTORS TO MAKE EXAMINATIONS.

Collectors and revenue agents will make examinations of the retail drug stores, pharmacies, and other places in their districts to ascertain if the medicinal articles and other articles mentioned in Schedule B, contained in stock and offered for sale, are stamped according to law wherever liable under the foregoing instructions.

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In cases where the officer is not able to determine liability to tax, or where there is reasonable doubt, samples should be sent to this office marked "Law Division" for decision. Samples sent for this purpose should include all wrappings, circulars, advertisements, etc., pertaining to the sample in question, and should be accompanied by a letter of transmission giving full information concerning the same.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved.
BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2064.)

Emergency revenue law—Tax on undivided profits.

Method of arriving at undivided profits to be entered into the basis upon which tax on bankers, under the act of October 22, 1914, is to be computed.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 23, 1914.

To collectors of internal revenue, revenue agents, and others:

Subdivision 1, section 3, act of October 22, 1914, imposes an annual tax upon bankers of $1 upon each $1,000 of capital, surplus, and undivided profits used or employed during the preceding fiscal year.

Many inquiries have been received from bankers as to the proper method of arriving at the amount of undivided profits to be used in the basis upon which the tax is computed when such undivided profits have varied or fluctuated.

In T. D. 19797, dated July 29, 1898, it was held that the undivided profits should be figured for each business day, and the average thereof taken as the amount of undivided profits to be used in computing the tax due. In many instances it is clear that such a method would be more or less impracticable and involve too lengthy a calculation in arriving at the basis desired. Therefore, while, perhaps, the daily average of undivided profits, as set forth above, is the one absolutely accurate method by which to arrive at the amount to be entered into the total of capital, surplus, and undivided profits, this office will accept a return, under oath, from any banker where the undivided profits are computed in any manner whereby a fair and just amount is arrived at representing the average amount of the undivided profits employed by the bank during the fiscal year preceding the year for which the tax is due.

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It should be understood, in the event the amount of undivided profits arrived at by the banker is questioned, that the average undivided profits should be computed for each business day, as set forth in T. D. 19797.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2065.)

Emergency revenue law—Bills of lading.

The law requiring bills of lading to be stamped does not apply to local operators for the delivery of packages, baggage, and such like, within the limits of the same town or city.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 23, 1914.

SIR: In reply to your letter of the 13th instant, you are informed that mere local operators for the delivery of packages, baggage, and such like, within the limits of the same town or city, are not required to give bills of lading. Although such operators may give a receipt for articles to be delivered, such receipt is not required to be stamped. A mere carrier, as, for instance, a person with a horse and wagon, who does a local delivery business in a city or town, is not included within the above requirement. The carriers which were intended to be included within the terms of Schedule A, under the head of "Express and freight," are such as are engaged in the transportation of express matter and freight from one place to another in the ordinary course of commerce and trade.

Respectfully,

ROBT. WILLIAMS, JR.,
Acting Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2066.)

Emergency revenue law—Talcum powders, etc.

Relative to tax on talcum powders, bay rum, witch-hazel, and vaseline, under the act of Congress approved October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 23, 1914.

SIR: Replying to your letter of the 19th instant, you are informed that it is held that talcum powders of all kinds, although not specifically named in Schedule B of the act of Congress approved October 22, 1914, are clearly such similar substances or articles to those

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enumerated therein as to be subject to the tax. Talcum powder must, therefore, as a class, be stamped.

Witch-hazel, bay rum, white vaseline, perfumed vaseline, and so-called blue-label vaseline are subject to the tax.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2067.)

Emergency revenue law—Schedule A.

Law and regulations concerning internal-revenue documentary stamps and taxes under schedule A, act of October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 23, 1914.

The act of October 22, 1914, is in part as follows:

LAW.

ADHESIVE STAMPS.

SEC. 5. That on and after the first day of December, nineteen hundred and fourteen, there shall be levied, collected, and paid, for and in respect of the several bonds, debentures, or certificates of stock and of indebtedness, and other documents, instruments, matters, and things mentioned and described in Schedule A of this act, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, shall be written or printed by any person or persons, or party who shall make, sign, or issue the same, or for whose use or benefit the same shall be made, signed, or issued, the several taxes or sums of money set down in figures against the same, respectively, or otherwise specified or set forth in the said schedule. * * *

SEC. 6. That if any person or persons shall make, sign, or issue, or cause to be made, signed, or issued, any instrument, document, or paper of any kind or description whatsoever, without the same being duly stamped for denoting the tax hereby imposed thereon, or without having thereupon an adhesive stamp to denote said tax, such person or persons shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than $100, at the discretion of the court.

SEC. 7. That if any person shall forge or counterfeit, or cause, or procure to be forged or counterfeited any stamp, die, plate, or other instrument, or any part of any stamp, die, plate, or other instrument, which shall have been provided, or may hereafter be provided, made, or used in pursuance of this act, or shall forge, counterfeit, or resemble, or cause or procure to be forged, counterfeited, or resembled, the impression, or any part of the impression, of any such stamp, die, plate, or other instrument, as aforesaid, upon any vellum, parchment, or paper, or shall stamp or mark, or cause or procure to be stamped or marked, any vellum, parchment, or paper with any such forged or counterfeited stamp, die, plate, or other instrument, or part of any stamp, die, plate, or other instrument, as aforesaid, with intent to defraud the United States of any of the taxes hereby imposed, or any part thereof; or if any person shall utter, or sell, or expose for sale, any vellum, parchment, paper, article, or thing having

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thereupon the impression of any such counterfeited stamp, die, plate, or other instrument, or any part of any stamp, die, plate, or other instrument, or any such forged, counterfeited, or resembled impression, or part of impression, as aforesaid, knowing the same to be forged, counterfeited, or resembled; or if any person shall knowingly use or permit the use of any stamp, die, plate, or other instrument, which shall have been so provided, made, or used as aforesaid, with intent to defraud the United States, or if any person shall fraudulently cut, tear, or remove, or cause or procure to be cut, torn, or removed, the impression of any stamp, die, plate, or other instrument which shall have been provided, made, or used in pursuance of this act from any vellum, parchment, or paper, or any instrument or writing charged or chargeable with any of the taxes imposed by law; or if any person shall fraudulently use, join, fix, or place, or cause to be used, joined, fixed, or placed, to, with, or upon any vellum, parchment, paper, or any instrument or writing charged or chargeable with any of the taxes hereby imposed, any adhesive stamp, or the impression of any stamp, die, plate, or other instrument, which shall have been provided, made, or used in pursuance of law, and which shall have been cut, torn, or removed from any other vellum, parchment, or paper, or any instrument or writing charged or chargeable with any of the taxes imposed by law; or if any person shall willfully remove or cause to be removed, alter or cause to be altered, the canceling or defacing marks of any adhesive stamp with intent to use the same, or to cause the use of the same, after it shall have been once used, or shall knowingly or willfully sell or buy such washed or restored stamp, or offer the same for sale, or give or expose the same to any person for use, or knowingly use the same, or prepare the same with intent for the further use thereof; or if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any washed, restored, or altered stamp which has been removed from any vellum, parchment, paper, instrument, or writing, then, and in every such case, every person so offending, and every person knowingly and willfully aiding, abetting, or assisting in committing any such offenses as aforesaid shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall forfeit the said counterfeit stamps and the articles upon which they are placed, and shall be punished by fine not exceeding $1,000, or by imprisonment and confinement at hard labor not exceeding five years, or both, at the discretion of the court.

SEC. 8. That in any and all cases where an adhesive stamp shall be used for denoting any tax imposed by this act, except as hereinafter provided, the person using or affixing the same shall write or stamp thereupon the initials of his name and the date upon which the same shall be attached or used, so that the same may not again be used. And if any person shall fraudulently make use of an adhesive stamp to denote any tax imposed by this act without so effectually canceling and obliterating such stamp, except as before mentioned, he, she, or they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $500, or be imprisoned not more than six months, or both, at the discretion of the court: * * *

SEC. 9. That if any person or persons shall make, sign, or issue, or cause to be made, signed, or issued, or shall accept or pay, or cause to be accepted or paid, with design to evade the payment of any stamp tax, any promissory note liable to any of the taxes imposed by this act, without the same being duly stamped, or having thereupon an adhesive stamp for denoting the tax hereby charged thereon, he, she, or they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $200, at the discretion of the court.

SEC. 10. That the collectors of the several districts are hereby authorized and required to furnish to any assistant treasurer of the United States or designated depositary thereof, or any postmaster located in their collection districts, respectively, a suitable quantity of adhesive stamps, without prepayment therefor, and may in advance require of any designated depositary, assistant treasurer of the United States, or postmaster a bond, with sufficient sureties, to an amount equal to the value of the adhesive stamps which may be placed in his hands and remain unaccounted for,

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conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of, and for the payment monthly of all quantities or amounts sold or not remaining on hand. And it shall be the duty of such collectors to supply their deputies with, or sell to other parties within their respective districts who may make application therefor, adhesive stamps, upon the same terms allowed by law or under the regulations of the Commissioner of Internal Revenue, who is hereby authorized to make such other regulations, not inconsistent herewith, for the security of the United States and the better accommodation of the public, in relation to the matters hereinbefore mentioned, as he may judge necessary and expedient. And the Secretary of the Treasury may from time to time make such regulations as he may find necessary to insure the safe-keeping or prevent the illegal use of all such adhesive stamps.

SEC. 11. That any person or persons who shall register, issue, sell, or transfer, or who shall cause to be issued, registered, sold, or transferred, any instrument, document, or paper of any kind or description whatsoever mentioned in Schedule A of this act, without the same being duly stamped, or having thereupon an adhesive stamp for denoting the tax chargeable thereon, and canceled in the manner required by law, with intent to evade the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $50, or by imprisonment not exceeding six months, or both, in the discretion of the court: *Provided*, That hereafter, in all cases where the party has not affixed to any instrument the stamp required by law thereon at the time of issuing, selling, or transferring the said bonds, debentures, or certificates of stock or of indebtedness, and he or they, or any party having an interest therein, shall be subsequently desirous of affixing such stamp to said instrument, or, if said instrument be lost, to a copy thereof, he or they shall appear before the collector of internal revenue of the proper district, who shall, upon the payment of the price of the proper stamp required by law, and of a penalty of $10, and, where the whole amount of the tax denoted by the stamp required shall exceed the sum of $50, on payment also of interest, at the rate of six per centum, on said tax from the day on which such stamp ought to have been affixed, affix the proper stamp to such bond, debenture, certificate of stock or of indebtedness or copy, and note upon the margin thereof the date of his so doing, and the fact that such penalty has been paid; and the same shall thereupon be deemed and held to be as valid, to all intents and purposes, as if stamped when made or issued: *And provided further*, That where it shall appear to said collector, upon oath or otherwise, to his satisfaction, that any such instrument has not been duly stamped, at the time of making or issuing the same, by reason of accident, mistake, inadvertence, or urgent necessity, and without any willful design to defraud the United States of the stamp, or to evade or delay the payment thereof, then and in such case, if such instrument, or, if the original be lost, a copy thereof, duly certified by the officer having charge of any records in which such original is required to be recorded, or otherwise duly proven to the satisfaction of the collector, shall, within twelve calendar months after the making or issuing thereof, be brought to the said collector of internal revenue to be stamped, and the stamp tax chargeable thereon shall be paid, it shall be lawful for the said collector to remit the penalty aforesaid and to cause such instrument to be duly stamped. And when the original instrument, or a certified or duly proven copy thereof, as aforesaid, duly stamped so as to entitle the same to be recorded, shall be presented to the clerk, register, recorder, or other officer having charge of the original record, it shall be lawful for such officer, upon the payment of the fee legally chargeable for the recording thereof, to make a new record thereof, or to note upon the original record the fact that the error or omission in the stamping of said original instrument has been corrected pursuant to law; and the original instrument or such certified copy, or the record thereof, may be used in all courts and places in the same manner and with like effect as if the instrument had been originally stamped: *And provided further*, That in all cases where the party has not affixed the stamp required

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by law upon any such instrument issued, registered, sold, or transferred at a time when and at a place where no collection district was established, it shall he lawful for him or them, or any party having an interest therein, to affix the proper stamp thereto, or, if the original be lost, to a copy thereof. But no right acquired in good faith before the stamping of such instrument, or copy thereof, as herein provided, if such record be required by law, shall in any manner be affected by such stamping as aforesaid.

SEC. 12. That hereafter no instrument, paper, or document required by law to be stamped, which has been signed or issued without being duly stamped, or with a deficient stamp, nor any copy thereof, shall be recorded until a legal stamp or stamps, denoting the amount of tax, shall have been affixed thereto, as prescribed by law: *Provided*, That any bond, debenture, certificate of stock, or certificate of indebtedness issued in any foreign country shall pay the same tax as is required by law on similar instruments when issued, sold, or transferred in the United States; and the party to whom the same is issued, or by whom it is sold or transferred, shall, before selling or transferring the same, affix thereon the stamp or stamps indicating the tax required.

SEC. 13. That it shall not be lawful to record or register any instrument, paper, or document required by law to be stamped unless a stamp or stamps of the proper amount shall have been affixed and canceled in the manner prescribed by law.

SEC. 14. That no instrument, paper, or document required by law to be stamped shall be deemed or held invalid and of no effect for the want of a particular kind or description of stamp designated for and denoting the tax charged on any such instrument, paper, or document, provided a legal documentary stamp or stamps denoting a tax of equal amount shall have been duly affixed and used thereon.

SEC. 15. That all bonds, debentures, or certificates of indebtedness issued by the officers of the United States Government, or by the officers of any State, county, town, municipal corporation, or other corporation exercising the taxing power, shall be, and hereby are, exempt from the stamp taxes required by this act: *Provided*, That it is the intent hereby to exempt from the stamp taxes imposed by this act such State, county, town, or other municipal corporations in the exercise only of functions strictly belonging to them in their ordinary governmental, taxing, or municipal capacity: *Provided further*, That stock and bonds issued by cooperative building and loan associations, mutual ditch or irrigating companies, and building and loan associations or companies that make loans only to their shareholders, shall be exempt from the tax herein provided.

SEC. 22. That the Commissioner of Internal Revenue shall cause to be prepared and distributed for the payment of the taxes prescribed in this act suitable stamps denoting the tax on the document, article, or thing to which the same may be affixed, and he is authorized to prescribe such method for the cancellation of said stamps, as substitute for or in addition to the method provided in this act, as he may deem expedient. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to procure any of the stamps provided for in this act by contract whenever such stamps can not be speedily prepared by the Bureau of Engraving and Printing; but this authority shall expire on the first day of November, nineteen hundred and fifteen, except as to imprinted stamps furnished under contract, authorized by the Commissioner of Internal Revenue. That the adhesive stamps used in the payment of the tax levied in Schedules A and B of this act shall be furnished for sale by the several collectors of internal revenue, who shall sell and deliver them at their face value to all persons applying for the same, except officers or employees of the Internal-Revenue Service: *Provided*, That such collectors may sell and deliver such stamps in quantities of not less than $100 of face value, with a discount of one per centum, except as otherwise provided in this act.

SEC. 23. That all administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this act; and every person, firm, company, corporation, or associa-

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tion liable to any tax imposed by this act, or for the collection thereof, shall keep such records and render, under oath, such statements and returns, and shall comply with such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe; and every such person, firm, company, corporation, or association who evades or attempts to evade any of the taxes imposed by this act, or shall fail to truly account for and pay all taxes collected by them under this act, or any regulations issued thereunder, shall be subject to a penalty of double the amount of the taxes evaded or attempted to be evaded or unlawfully withheld, to be assessed and collected as other penalties incurred under internal-revenue laws are assessed and collected; * * *.

SEC. 24. That the provisions of this act shall take effect on the day next succeeding the date of its passage, except where otherwise expressly provided: *Provided*, That on the day after the thirty-first day of December, nineteen hundred and fifteen, the taxes levied under this act shall no longer be levied and collected, but all taxes arising or accruing before said date shall continue to be collectible under the terms of this act: * * * All stamps provided for in this act unused after the aforesaid date shall be redeemed from the holder thereof, under such rules as the Secretary of the Treasury may prescribe.

Approved, October 22, 1914.

SCHEDULE A.

STAMP TAXES.

Bonds, debentures, or certificates of indebtedness issued on and after the first day of December, nineteen hundred and fourteen, by any association, company, or corporation, on each $100 of face value or fraction thereof, 5 cents, and on each original issue, whether on organization or reorganization, of certificates of stock by any such association, company, or corporation, on each $100 of face value or fraction thereof, 5 cents, and on all sales, or agreements to sell, or memoranda of sales or deliveries or transfers of shares or certificates of stock in any association, company, or corporation, whether made upon or shown by the books of the association, company, or corporation, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale, whether entitling the holder in any manner to the benefit of such stock, or to secure the future payment of money or for the future transfer of any stock, on each $100 of face value or fraction thereof, 2 cents: *Provided*, That it is not intended by this act to impose a tax upon an agreement evidencing a deposit of stock certificates as collateral security for money loaned thereon, which stock certificates are not actually sold, nor upon such stock certificates so deposited: *Provided further*, That in case of sale where the evidence of transfer is shown only by the books of the company the stamp shall be placed upon such books; and where the change of ownership is by transfer certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. And any person or persons liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person or persons, who shall make any such sale, or who shall in pursuance of any such sale deliver any such stock, or evidence of the sale of any such stock or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000, or be imprisoned not more than six months, or both, at the discretion of the court.

Upon each sale, agreement of sale, or agreement to sell, any products or merchandise at any exchange, or board of trade, or other similar place, either for present or future

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delivery, for each $100 in value of said sale, or agreement of sale, or agreement to sell, 1 cent, and for each additional $100 or fractional part thereof in excess of $100, 1 cent: *Provided*, That on every sale, or agreement of sale, or agreement to sell as aforesaid, there shall be made and delivered by the seller to the buyer a bill, memorandum, agreement, or other evidence of such sale, agreement of sale, or agreement to sell, to which there shall be affixed a lawful stamp or stamps in value equal to the amount of the tax on such sale. And every such bill, memorandum, or other evidence of sale or agreement to sell shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers; and any person or persons liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person or persons, who shall make any such sale or agreement of sale, or agreement to sell, or who shall, in pursuance of any such sale, agreement of sale, or agreement to sell, deliver any such products or merchandise without a bill, memorandum, or other evidence thereof as herein required, or who shall deliver such bill, memorandum, or other evidence of sale, or agreement to sell, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000, or be imprisoned not more than six months, or both, at the discretion of the court.

That no bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell, in case of products or merchandise actually delivered at the time of sale, or while in vessel, boat, or car, and actually in course of transportation, shall be subject to this tax, provided such bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell shall be accompanied by bills of lading or vouchers showing that the said products are actually in course of transportation as aforesaid.

Promissory notes, except bank notes issued for circulation, and for each renewal of the same, for a sum not exceeding $100, 2 cents; and for each additional $100 or fractional part thereof in excess of $100, 2 cents.

Express and freight: It shall be the duty of every railroad or steamboat company, carrier, express company, or corporation or person whose occupation is to act as such, to issue to the shipper or consignor, or his agent, or person from whom any goods are accepted for transportation where a charge exceeding 5 cents is made a bill of lading, manifest, or other evidence of receipt and forwarding for each shipment received for carriage and transportation, whether in bulk or in boxes, bales, packages, bundles, or not so inclosed or included; and such shipper, consignor, agent, or person shall duly attach and cancel, as is in this act provided, to each of said bills of lading, manifests, or other memorandum, a stamp of the value of 1 cent: *Provided*, That a consignment of newspapers to any one point or to different points by the same train or conveyance when inclosed in one general bundle at the point of shipment shall be considered as one shipment, and, in lieu of a bill of lading therefor, the publisher of such newspaper shall file on or before the fifteenth day of each month with the collector of internal revenue for the district in which such newspaper is published a report under oath showing the number of such shipments during the preceding month to which report such publisher shall affix and cancel stamps equal in value to 1 cent for each shipment so reported: *Provided further*, That the report herein required shall not include shipments of newspapers delivered to points within the county in which the same are published. Any failure to issue such bill of lading, manifest, or other memorandum, as herein provided, shall subject such railroad or steamboat company, carrier, express company, or corporation or person to a penalty of $50 for each offense.

Telegraph and telephone messages: It shall be the duty of every person, firm, or corporation owning or operating any telegraph or telephone line or lines to make within thirty days after the expiration of each month a sworn statement to the collector of internal revenue in each of their respective districts, stating the number of dispatches, messages, or conversations originated at each of their respective exchanges, toll stations, or offices, and transmitted thence over their lines during the

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preceding month for which a charge of 15 cents or more was imposed, and for each of such messages or conversations the said person, firm, or corporation shall collect from the person paying for the message or conversation a tax of 1 cent in addition to the regular charges for the message or conversation, which tax the said person, firm, or corporation shall in turn pay to the said collector of internal revenue of their respective districts: *Provided*, That only one payment of said tax shall be required, notwithstanding the lines of one or more persons, firms, or corporations shall be used for the transmission of each of said messages or conversations: *Provided further*, That the messages or dispatches of the officers and employees of any telegraph or telephone company concerning the affairs and service of the company, and like messages or dispatches of the officials and employees of railroad companies sent over the wires on their respective railroads shall be exempt from this requirement: *And provided further*, That messages of officers and employees of the Government on official business shall be exempt from the taxes herein imposed upon telegraphic and telephonic messages.

Bond: For indemnifying any person or persons, firm, or corporation who shall have become bound or engaged as surety for the payment of any sum of money, or for the due execution or performance of the duties of any office or position, and to account for money received by virtue thereof, and all other bonds of any description, except such as may be required in legal proceedings, not otherwise provided for in this schedule, 50 cents.

Certificate of profits, or any certificate or memorandum showing an interest in the property or accumulations of any association, company, or corporation, and on all transfers thereof, on each $100 of face value or fraction thereof, 2 cents.

Certificate: Any certificate of damage, or otherwise, and all other certificates or documents issued by any port warden, marine surveyor, or other person acting as such, 25 cents.

Certificate of any description required by law not otherwise specified in this act, 10 cents.

Contract: Broker's note, or memorandum of sale of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind or description issued by brokers or persons acting as such, for each note or memorandum of sale, not otherwise provided for in this act, 10 cents.

Conveyance: Deed, instrument, or writing, whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance thereon, exceeds $100 and does not exceed $500, 50 cents; and for each additional $500 or fractional part thereof in excess of $500, 50 cents: *Provided*, That nothing contained in this paragraph shall be so construed as to impose a tax upon any instrument or writing given to secure a debt.

Entry of any goods, wares, or merchandise at any customhouse, either for consumption or warehousing, not exceeding $100 in value, 25 cents; exceeding $100 and not exceeding $500 in value, 50 cents; exceeding $500 in value, $1.

Entry for the withdrawal of any goods or merchandise from customs bonded warehouse, 50 cents.

Insurance: Each policy of insurance or other instrument, by whatever name the same shall be called, by which insurance shall be made or renewed upon property of any description (including rents or profits), whether against peril by sea or on inland waters, or by fire or lightning, or other peril, made by any person, association, or corporation, upon the amount of premium charged, one-half of 1 cent on each dollar or fractional part thereof: *Provided*, That purely cooperative or mutual fire insurance companies or associations carried on by the members thereof solely for the protection of their own property and not for profit shall be exempted from the tax herein provided: *And provided further*, That policies of reinsurance shall be exempt from the tax herein imposed by this paragraph.

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Each policy of insurance or bond or obligation of the nature of indemnity for loss, damage, or liability issued or executed or renewed by any person, association, company, or corporation transacting the business of fidelity, employer's liability, plate glass, steam boiler, burglary, elevator, automatic sprinkler, or other branch of insurance (except life, personal accident, and health insurance, and insurance described and taxed or exempted in the preceding paragraph and excepting also workmen's compensation insurance carried on by the members thereof solely for their own protection and not for profit), and each bond, undertaking, or recognizance, conditioned for the performance of the duties of any office or position, or for the doing or not doing of anything therein specified, or other obligation of the nature of indemnity, and each contract or obligation guaranteeing the validity or legality of bonds or other obligations issued by any State, county, municipal, or other public body or organization, or guaranteeing titles to real estate or mercantile credits executed or guaranteed by any liability, fidelity, guarantee, or surety company upon the amount of premium charged, one-half of 1 cent on each dollar or fractional part thereof: *Provided*, That policies of reinsurance shall be exempt from the tax herein imposed by this paragraph.

Passage ticket, for each passenger, sold in the United States for passage by any vessel to a foreign port or place, if costing not exceeding $30, $1; costing more than $30 and not exceeding $60, $3; costing more than $60, $5: *Provided*, That such passage tickets costing $10 or less shall be exempt from taxation.

Power of attorney or proxy for voting at any election for officers of any incorporated company or association, except religious, charitable, or literary societies, or public cemeteries, 10 cents.

Power of attorney to sell and convey real estate, or to rent or lease the same, to receive or collect rent, to sell or transfer any stock, bonds, scrip, or for the collection of any dividends or interest thereon, or to perform any and all other acts not hereinbefore specified, 25 cents: *Provided*, That no stamps shall be required upon any papers necessary to be used for the collection of claims from the United States for pensions, back pay, bounty, or for property lost in the military or naval service.

Protest: Upon the protest of every note, bill of exchange, acceptance, check or draft, or any marine protest, whether protested by a notary public or by any other officer who may be authorized by the law of any State or States to make such protest, 25 cents.

Every seat sold in a palace or parlor car and every berth sold in a sleeping car, 1 cent, to be paid by the company selling the same.

REGULATIONS.

Section 5 of the act of October 22, 1914, provides under the title of adhesive stamps, for the collection, on and after December 1, 1914, of certain taxes on documents, instruments, and things mentioned and described in Schedule A of said act, as follows:

STAMP DUTIES ON AND AFTER DECEMBER 1, 1914.

SCHEDULE A.—*Documentary.*

1. Bonds, debentures, or certificates of indebtedness of any association, company, or corporation, on each $100 of face value or fraction thereof.....	$0. 05
2. On each original issue of certificates of stock, whether on organization or reorganization, on each $100 of face value or fraction thereof.....	.05
On all sales, agreements to sell, memoranda of sales, deliveries or transfers of shares, or certificates of stock of any association or corporation, on each $100 of face value or fraction thereof.....	.02

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3. Upon each sale, agreement to sell, or agreement of sale of any products or merchandise at any exchange or board of trade, for future delivery, for each $100 in value of said sale	$0.01
And for each $100 or fractional part thereof in excess of $100	.01
4. Promissory notes (except bank notes issued for circulation), and for each renewal of same, for a sum not exceeding $100	.02
And for each additional $100, or fractional part thereof, in excess of $100	.02
5. Bills of lading, manifests, etc., issued by express companies, or public carriers, etc., where a charge exceeding 5 cents is made, a stamp to each of the value of	.01
6. Bond, indemnifying, etc. (except those required in legal proceedings), not otherwise provided for	.50
7. Certificates of profits, or certificates or memoranda showing interest in the property or accumulations of any association, company, or corporation, and all transfers thereof, on each $100 of face value or fraction thereof	.02
8. Certificates of damage, or otherwise, and all other certificates or documents issued by port warden or marine surveyor	.25
9. Certificates of any description required by law, not otherwise specified	.10
10. Contract, broker's note, or memorandum of sale of goods, or merchandise, stock, bonds, exchange, notes of hand, real estate, or property of any kind, issued by brokers, etc., for each note or memorandum of sale not otherwise provided for	.10
11. Conveyance—deed, instrument, or writing conveying lands, tenements, or other realty, etc., value over $100 and not exceeding $500	.50
For each additional $500 or fraction thereof	.50
12. Entry of goods, wares, and merchandise in customhouse, not exceeding $100 in value	.25
Exceeding $100 and not exceeding $500	.50
Exceeding $500 in value	1.00
13. Entry for withdrawal of goods or merchandise from customs bonded warehouse	.50
14. Insurance, marine, inland and fire or lightning (except purely cooperative or mutual), on each policy, or renewal, on amount of premium charged on each $1 or fractional part	.00½
15. Insurance, casualty, fidelity, and guarantee, on each policy, on each $1 or fractional part thereof of premium charged	.00½
16. Passage ticket, for each passenger sold in the United States for passage by any vessel to a foreign port or place, cost not exceeding $30	1.00
More than $30 and not exceeding $60	3.00
More than $60	5.00
Cost not exceeding $10 exempt.	
17. Power of attorney or proxy for voting at an election for officers of any incorporated company or association, except religious, charitable, literary societies, or public cemeteries	.10
18. Power of attorney to sell or convey real estate or to rent or lease the same, to collect or receive rent, to sell or transfer stock, bonds, etc	.25
(Papers used in the collection of pension, back pay, or bounty claims, or claims for property lost in military or naval service are exempt.)	
19. Protest: Upon the protest of every note, bill of exchange, acceptance, check, or draft, or any marine protest	.25

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20. Telegraph and telephone messages: Every person, firm, or corporation operating any telephone line or lines is required to make, within 30 days after the expiration of each month, a sworn statement to the collector of the number of messages or conversations transmitted over their lines during preceding months for which a charge of 15 cents or more was imposed, and for each of such messages or conversations a tax shall be paid of..... $0.01

21. Every seat sold in a palace or parlor car and every berth sold in a sleeping car, to be paid by the company selling the same..... .01

Under authority conferred upon the Commissioner of Internal Revenue in section 22 of said act, the following adhesive stamps have been prepared:

Documentary stamps, Schedule A.—½ cent, 1 cent, 2 cents, 3 cents, 4 cents, 5 cents, 10 cents, 25 cents, 40 cents, 50 cents, 80 cents, $1, $2, $3, $5, $10, $30, $50, $100, $500, $1,000.

PROCUREMENT OF ADHESIVE STAMPS.

All of the above stamps may be purchased from collectors and deputy collectors of internal revenue.

In addition, provision has been made in the act for the delivery of stamps by collectors without prepayment to any Assistant Treasurer of the United States, depository of the United States, or postmaster, who may be required to give bond for the value of stamps deposited with him. It is not mandatory upon the persons named to make the required bond and secure the stamps. When stamps are so furnished without prepayment, the postmaster or other officer is not entitled to any discount, but discount of 1 per cent will be allowed to those who purchase to the amount of $100 of face value at one time, paying cash therefor at the time of purchase or receipt, either from the collector or the persons with whom stamps have been deposited without prepayment as noted in the foregoing.

Stamps to be affixed to articles manufactured in a foreign country and imported into the United States may be purchased and forwarded to the place of manufacture and there affixed to the articles before the same are packed for importation.

TELEGRAPH AND TELEPHONE MESSAGES.

1. A company shall make one report and one return for the company as a whole and not for each of its exchanges and toll stations separately; such report and return shall be made to the collector of internal revenue of the district in which the company's principal office is located.

2. Every company shall include in its report all taxable messages originated by it without regard to the ownership of toll lines used in transmitting those messages. Telephone companies receiving

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messages to be retransmitted over the lines of a telegraph company, or telegraph companies receiving messages to be retransmitted over the line of a telephone company, will be regarded as the point where such messages originate. In such cases the company retransmitting such messages will not be required to include the same in its monthly return. Where, however, a message sent over a telephone line is received directly from the sender, the company receiving and transmitting the same will, in such case, be regarded as the point of origin, and will include all such taxable messages in its monthly return. A reversed message shall be considered as originating at the point of collection.

3. Reports and returns may be made by a company for its fiscal month or billing period to be filed within 30 days after expiration of fiscal month, provided full return is made for the period during which the tax is to be collected.

4. Additions may be made any month for errors on the previous month's reports and returns. Reductions covering items reported in excess in previous months not allowable. In such cases amended returns may be filed before assessment is made, otherwise claim for abatement or refund, as the case may be, should be filed.

5. Messages originating at automatic telephone stations for each of which a charge of 15 cents or more was made are subject to tax, and companies owning or operating such stations must include all such messages in their monthly returns. The method of collecting the tax from the senders of such messages is a matter wholly within the province of the companies receiving and transmitting the messages.

6. All overtime telephone messages where the initial rate is less than 15 cents, but the total charge, on account of the overtime, brings the charge to 15 cents or more, are subject to tax.

7. Messages transmitted over private leased circuits and relating exclusively to the business for which the circuit was leased are held to be exempt from tax. Where, however, any such leased circuit is used for the transmission of messages other than above stated, return for all such messages for which a charge of 15 cents or more would ordinarily be made must be rendered monthly by the lessee.

8. Messages or dispatches of officers and employees of the company concerning the affairs and service of the company, and like messages or dispatches of officials and employees of railroad companies sent over the wires on their respective railroads, are exempt rom tax. Franked messages, if of a private character, for which a charge of 15 cents or more would otherwise be charged, do not come within the exemption above referred to, and should be included in the return made.

9. Messages of officers and employees of the United States Government on official business, and like messages of State officials, are exempt from tax.

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Messages or dispatches of officials and employees of railroad companies sent over wires *not* on their respective roads, for which a charge of 15 cents or more is made (including *pro rata* charges on messages sent in excess of free messages allowed under contracts with such railroads), are subject to tax.

TAX ON SALES OF SEATS OR BERTHS IN PALACE, PARLOR, OR SLEEPING CARS.

Until otherwise provided, every railroad company or other company owning or operating any palace or parlor car or sleeping car will, after January 1, 1915, and not later than the 20th day of each month, render to the collector of internal revenue of the district in which its principal office is located a sworn return of the number of seats or berths in any such car sold by it during the preceding month, and will pay to said collector the tax imposed by the revenue act of October 22, 1914, of 1 cent on each seat or berth so sold.

The return to be rendered in such cases will be in the following form:

(Form 674.)

UNITED STATES INTERNAL REVENUE.

Return of sales of seats and berths in palace, parlor, or sleeping cars taxable under act of October 22, 1914.

..... District of ....., ..., 191...

The undersigned, ..., of the....., (President or chief officer.) (Here give name of company.) having its principal office at ....., State of ....., hereby certifies that the said company owns or controls certain palace, parlor, and sleeping cars in use on its or other railroad lines, and that during the month of ....., 191., the total number of seats or berths in said cars sold by or on account of this said company was as follows:

Total number of seats sold..... .....
Total number of berths sold..... .....

Total of seats and berths sold..... .....
Amount of tax due..... $.....

...., ...
(Title.)

Subscribed and sworn to before me this .... day of ....., 191..
[SEAL.] ....

FREIGHT AND EXPRESS RECEIPTS.

Paragraph 5 of Schedule A requires every railroad or steamboat company, carrier, express company, or corporation or person whose occupation is to act as such, to issue to the shipper or consignor, or his agent, or person from whom any goods are accepted for transportation when a charge exceeding 5 cents is made a bill of lading, manifest, or other evidence of receipt and forwarding for each shipment received.

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A literal compliance with this requirement is in some cases impracticable or impossible.

It is, therefore, hereby provided that where freight is accepted at nonagency stations, it must be receipted for by conductors accepting it. He must see to it that an internal-revenue stamp of 1 cent denomination is attached to each of such receipts and canceled as required by these regulations before such shipments are accepted for transportation: *Provided, however*, That in the event shipment so offered are of a perishable nature, or are likely to deteriorate by delay, or to obstruct sidings or other facilities by being refused for lack of a compliance with the provisions of the act, or if shippers or their representatives are not at such nonagency stations to receive or to stamp such receipts, conductors may accept and transport such nonagency shipments to destination in advance of the affixing of the stamp. In such cases, receipts issued by the conductors must not be surrendered to the shipper, but must be delivered with the freight to the destination agent, who, in such cases, must present the consignor's receipt to the consignee and demand that it be stamped and the stamp canceled by him as agent for the shipper before delivery of the shipment. If a nonagency shipment be destined to another nonagency station, and the tax is not paid by the shipper, the conductor's receipt therefor must be indorsed "Stamp tax not paid," and it must be delivered with the freight to the agent at the nearest agency station to the destination of the shipment for execution and delivery of the receipt by and to the consignee. If a nonagency shipment, upon which the tax is not paid by the shipper, be destined to a point on another railway, the agent at the junction point at which the shipment is delivered to the connecting line must indorse on the delivery slip or manifest for such shipment "Stamp tax not paid," which delivery slip shall follow to the delivery station, the agent at which shall collect the tax before delivery of the freight.

Shipments of milk or cream, consisting of one or more cans, shipped by one shipper to one consignee on the same date and train to which milk or cream tickets are attached, will be regarded as one shipment, and to one of the milk tickets a stamp must be affixed, unless other evidence of receipt is issued, in which case the other evidence shall be properly stamped.

Switching tickets covering local switching orders for which a charge is made, covered by no bill of lading, will be regarded and stamped as evidences of receipt.

Dray tickets, or shippers tickets, will be regarded and stamped as evidences of receipt, unless surrendered for a bill of lading.

Baggage checks for the transportation of bicycles, dogs, baby carriages, etc., will be regarded as evidences of receipt and should be properly stamped.

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No stamp is required upon Federal and State Government shipments of Government or State property, for which, if a stamp were issued, the Federal Government or State government would be required to pay.

PASSAGE TICKETS.

A tax is imposed on tickets sold in the United States for passage by any vessel to a foreign port where the amount charged is in excess of $10, and whether the vessel for which the ticket is sold sails from a port of the United States or not. It is the duty of the person selling the ticket to affix and cancel the stamp to the ticket or paper which evidences the sale, namely, the coupon or order, at the time same is sold.

Where a single ticket is issued for transportation of more than one passenger, the ticket, coupon, or prepaid order must be stamped at the proper rate for each passenger based upon the number of passengers and the total amount paid for the transportation.

Where proxies are sent out by corporations to be executed and returned to the corporation or to the person named in the proxy, such proxies may be stamped after execution and delivery by the person receiving same as the agent of the person executing the proxy.

CANCELLATION OF DOCUMENTARY STAMPS.

In any and all cases where an adhesive stamp shall be used for denoting any tax imposed by Schedule A of the act of October 22, 1914, the person using or affixing the same shall write or stamp thereon, with ink, the initials of his name and the date (year, month, and day) in which the same shall be attached or used; or shall, by cutting and canceling said stamp with a machine or punch, which will affix the initials and date as aforesaid, so deface the stamp as to render it unfit for reuse. The cancellation by either method should not so deface the stamp as to prevent its denomination and genuineness from being readily determined.

In addition to the foregoing, stamps of the value of 10 cents or more shall have three parallel incisions made by some sharp instrument lengthwise through the stamp after the stamp has been attached to the document: *Provided*, This will not be required where stamps are canceled by perforation.

DOCUMENTARY STAMPS.

1. Documentary revenue stamps issued prior to October 22, 1914, under former revenue laws can not be used for the payment of taxes required by existing law, and the redemption or exchange of such old stamps is prohibited by statute.

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2. Ordinary postage stamps can not be used for the payment of any internal-revenue taxes.

As adhesive stamps may be sold by any person and readily pass at their face value in the market, provision has not been made for their exchange or redemption by the Government. Where, however, such stamps are rendered useless by gumming or sticking together in transit or otherwise without the fault of the purchaser, they may be exchanged by a collector for other stamps of exactly the same quantity and denomination.

4. Documentary and proprietary stamps can not be used interchangeably. Documentary stamps only must be used upon papers, documents, and instruments subject to tax as provided in Schedule A.

5. Where a stamp of the proper denomination to pay the tax due on an article or document can not be procured, two or more stamps may be used. In such case as few stamps as possible should be attached, and each stamp used should be canceled in the manner provided by regulation.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2068.)

Emergency revenue law—Tax on insurance policies.

Relative to whether the insurance company or the policyholder shall pay the tax imposed on insurance policies by the act of October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 26, 1914.

GENTLEMEN: Your letter of the 20th instant in regard to stamp tax on policies of insurance under the internal-revenue act of October 22, 1914, has been received. You inquire whether the tax should be borne by the insurance company or the policyholder.

In reply, you are informed that if the company insists that the insured party pay the value of the stamp, it is not a matter which the internal-revenue laws can deal with. It is a matter between the insurance company and the policyholder.

Respectfully,
W. H. OSBORN,
Commissioner of Internal Revenue.

Messrs. ——— ———.

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(T. D. 2069.)

Emergency revenue law—Marking of tax stamps.

Marking with initials of stamps intended to be forwarded by manufacturing company to cover stocks in the hands of retailers permitted.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 23, 1914.

SIR: This office is in receipt of your letter of the 11th instant stating that the company of your city desires to forward stamps covering stocks of preparations manufactured by them in the hands of retail dealers, and that the said company also desires to perforate the stamps with its initials to insure the using of the stamps on their manufactures.

In reply, you are informed that this office perceives no objection to allowing the company to perforate the stamps as indicated by you.

Respectfully,
W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2070.)

Emergency revenue law—Discount on purchases of documentary and proprietary stamps.

Postmasters, designated depositaries, and assistant treasurers of the United States furnished with stamps without prepayment not to be credited with a discount. All discounts allowed taxpayers by such postmasters, designated depositaries, and assistant treasurers will be claimed and allowed upon reports made to collectors at the close of a month.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 27, 1914.

To collectors of internal revenue:

Reference is made to T. D. 2055, dated November 16, 1914, under the caption, "Emergency revenue law—Discount on purchases of documentary stamps," which is hereby modified to provide that postmasters, designated depositaries, and assistant treasurers of the United States who buy documentary and proprietary stamps and pay for same upon or before delivery to them, are allowed a discount of 1 per cent when the value of each purchase is $100 or more.

If they are furnished with stamps under bond without prepayment therefor, such postmasters, designated depositaries, and assistant treasurers are not to be credited with the discount at that time, but when selling such stamps to taxpayers the discount provided by section 22 of the act may be allowed, and in reporting sales of stamps and remitting for same to collectors at the close of a month credit will be claimed and allowed for the amount of such discounts.

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It must be borne in mind at all times that no discount can be allowed on sales of stamps *other than documentary and proprietary.*

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2071.)

Emergency revenue law—Schedule A.

Certificates issued by State officers in the interest of the State not liable to stamp tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 27, 1914.

SIR: This office is in receipt of your letter of the 23d instant, stating that under the law of the State of New Jersey, foreign insurance companies and agents of such companies are permitted to transact business within the State only after they have received from the Commissioner of Banking and Insurance of the State a certificate authorizing them to transact such business, and inquiring whether or not the certificates are subject to stamp tax under the act of October 22, 1914.

In reply, you are informed that certificates issued by officers of the State in the interest of the State are not liable to tax. Certificates required by law issued by any department or office of the Government at the request of private persons, solely for private use, are to be stamped, the stamps to be furnished by the person applying for the document, and they should be affixed before the document is delivered.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2072.)

Emergency revenue law—Insurance companies.

Bonds and other instruments executed by fidelity and other similar insurance companies.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 28, 1914.

GENTLEMEN: Under date of the 24th instant you presented for consideration the following questions relative to stamp taxes under the act of October 22, 1914:

1. What bonds are subject to tax under schedule A of said act and the rate of tax thereon?

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2. As to what instruments are exempt under the term "bonds required in legal proceedings."

3. Relative to the stamping of bonds given by States, counties, and subdivisions thereof.

4. Bonds that are given to States, municipalities, etc.

5. Are certificates issued by a State officer authorizing agents or other persons to transact business within the State subject to tax?

6. Is tax required on premiums paid subsequent to December 1, 1914, upon continuous bonds executed prior thereto?

7. Relative to certificates required by State statutes or municipal ordinances to be attached to bonds for the purpose of showing the authority of officers executing them, and certificates required by State statutes showing the financial condition of the surety on the bond.

Answers are given to these questions in the order presented:

1. Every bond or obligation of the nature thereof, without regard to form, sealed or unsealed, with or without sureties, made by any individual, firm, or corporation to indemnify any person, corporation, or other entity for loss, damage, or liability, or for the doing or not doing of anything therein specified, and all undertakings, proposals, or agreements of every character offering indemnity or guaranteeing validity to any person or thing, is subject to a 50 cent tax, unless the sureties thereon, if any are offered, consist of persons, companies, or corporations transacting the business of fidelity, etc., insurance, when the rate of tax and the only tax required to be paid thereon will be one-half of 1 cent on each dollar or fractional part thereof of the premium charged.

2. Bonds required in legal proceedings or such as are essentially necessary in matters pending before judicial tribunals are exempted specifically by the law from taxation. Such bonds would generally include those required of executors, guardians, receivers, and other fiduciaries appointed by the court to care for or represent the interests of property or persons within the custody of the court. If simply appointed by any tribunal or officer to discharge other functions, the bonds so given are subject to taxation.

3. All bonds given by State, township, county, and subdivisions thereof are exempt from taxation.

4. Bonds given to a State for the performance of contracts—such as the construction of State or municipal buildings or the discharge of other duties strictly for or in behalf of the State, when necessary to protect the State's interests—are not subject to taxation.

5. Certificates issued by State officers authorizing companies or their agents to do business within the State, or vesting private persons with authority to transact business of a private nature, not under State or municipal control, are subject to tax.

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6. Bonds executed and delivered prior to the inception of the act aforesaid, whether taking effect immediately or subsequent to the enforcement of the taxing act, are not subject to tax.

7. Certificates issued by State or municipal officers showing the authority of the person before whom the instrument is attested, attached to any bond subject to tax, are subject to a tax of 10 cents as provided by law.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Messrs. ——— ———.

(T. D. 2073.)

Emergency revenue law—Rulings under Schedule A.

Transfers of stock certificates, bills of lading, and passage tickets.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 23, 1914.

SIR: This office is in receipt of your letter of the 16th instant, submitting for ruling certain questions in connection with the internal-revenue act of October 22, 1914.

Many of the questions submitted are under consideration by this office and no ruling has yet been made.

In regard to transfers of stock you are informed that the intention of the law is to tax the original issue of certificates of stock and to impose a tax upon every change of ownership. When stock is transferred for which no certificate has been issued and the evidence of transfer is shown only by the books of the company, the stamps shall be placed on such books. Where the change of ownership is by the transfer of a certificate and the certificate contains a blank form of assignment on the back which is filled in by the insertion of the name of the person to whom the stock is transferred, the stamp shall be placed upon the certificate.

In case of an agreement to sell or where the transfer is by the delivery of the certificate signed in blank the name of the transferee or vendee to be filled in afterwards there shall be made and delivered by the seller to the buyer a bill or memorandum of sale, to which the stamp should be affixed.

Where certificates of stock are sold and the tax has been paid and stamps affixed in the manner stated when the transfer is made on the books of the company from the name of the party selling to the name of the purchaser, no stamps are required on the new certificates issued in lieu of those canceled.

If a transfer of shares of stock be made by an owner thereof to a broker merely for the purpose of having the broker make a sale thereof and if the request for such transfer to the broker is accom-

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panied by the broker's certificate that he has no ownership therein, the transfer being made to him merely for the purpose of making sale, such transfer to a broker need not be stamped.

Certificates of stock of a foreign corporation when sold or delivered within the United States are subject to the same tax as certificates of stock of any domestic corporation.

Certificates required by law issued by any department or officer of the Government at the request of private persons solely for private use should be stamped. The stamp should be furnished by the person applying for the instrument and for whose use and benefit the same is issued and should be affixed before the document is delivered. Certificates of officers of the United States given in the discharge of official functions necessary in carrying on the machinery of the Government are exempt. Any documents, the stamping of which would make it necessary that the Government should furnish the stamp, are held exempt from the stamp tax.

The first requirement necessary to subject any given certificate to tax under the heading of "Certificates of any description required by law not otherwise specified in this act" is that it shall be one that is required to be given by law, national, State, or municipal.

Certificates given by an officer, not for a public or governmental purpose, but for private interests and use, are liable to the tax if they are given in obedience to any law which requires them to be given when called for.

A paper evidencing the carriage of excess baggage by a railroad company does not require to be stamped.

Bills of lading and manifests are not required by those who make local deliveries of merchandise or packages in a town or city, the merchandise being transported from one part of the city to another. The law is intended to apply to what is known as "common carriers of freight."

If a through shipment is made on one bill of lading, it will be sufficient to affix the 1-cent stamp to the original bill of lading only. Copies or duplicates should have written or stamped thereon "Original duly stamped," or words to that effect. Where bills of lading are exchanged for others under reconsignments, the new bills of lading require stamps.

It is the opinion of this office that it is the duty of the railroad company or carrier to see that the stamp is duly affixed and canceled when the bill of lading is issued and delivered to the shipper.

In regard to passage tickets, you are advised that a tax is imposed on tickets sold in the United States for passage by any vessel to a foreign port where the amount charged is in excess of $10, and whether the vessel for which the ticket is issued sails from a port of the United States or not. It is the duty of the person selling the ticket to affix

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and cancel the stamp to the ticket or paper which evidences the sale, namely, the coupon or order, at the time same is sold.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2074.)

Emergency revenue law—Foreign bills of lading.

Tax required on bills of lading for export where there is an inland haul.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 1, 1914.

SIR: This office is in receipt of your letter of the 27th ultimo, requesting a ruling as to whether or not a tax is imposed upon a through bill of lading from an interior point to a foreign port, a part of which is necessarily an inland haul. You refer to the decisions of the Supreme Court in Fairbanks *v.* United States, (181 U. S., 283) and the later decision in the case of Cornell *v.* Coyne (192 U. S., 418), as bearing upon the case.

This office has heretofore considered these two decisions, and is of the opinion that the doctrine laid down in the case of Cornell *v.* Coyne is more applicable to the present law than is the Fairbanks decision. The latter was rendered in a case arising under the war revenue act of June 13, 1898, which imposed a tax of 1 cent on domestic bills of lading, and 10 cents on export bills of lading, which was clearly discriminatory. In the Cornell case it was held that it is not discriminatory to impose the same tax upon an article intended for export as is imposed upon the same article when intended for domestic consumption.

This office is of the opinion, therefore, that foreign bills of lading for direct shipment from the United States without inland haul are not taxable, but that where there is an inland haul, the bills of lading are taxable, as the same bill of lading would be for an inland haul alone.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2075.)

Emergency revenue law—Bundles of newspapers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 1, 1914.

SIR: In reply to your letter of the 23d instant to the Secretary of the Treasury, which has been referred to this office, the following

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answers are made to the questions relative to that portion of the act of October 22, 1914, concerning consignment of newspapers, numerically placed in your communication:

1. There is no objection to the use of shipping sacks similar to the United States mail bags.

2. One shipment to a consignee requires one stamp.

3. Where there are two or more wagonloads of newspapers delivered to a railroad or express company in one shipment, to one consignee, such shipment would require but one stamp.

4. If the contents of a wagon delivered to a railroad or express company are one shipment, to one consignee, such contents require one stamp and are considered one bundle.

5. Bundles of papers taken by dealers or news companies from the office of distribution to points outside of a county are not subject to tax.

6. Shipments from New York or Brooklyn to other points in Greater New York, not in the same county, are subject to tax.

7. Each shipment or bundle must be counted as one.

You are also advised that the law provides that a consignment of newspapers to any one point or to different points by the same train or conveyance when inclosed in one general bundle at the point of shipment shall be considered as one shipment.

See T. D. 2036 relative to reports of shipments of newspapers to be made monthly to collectors in lieu of bills of lading, which will be shown you by the collector of your district upon application, to whom you are referred for further information.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2076.

Chewing gum in broken packages.

Chewing gum in broken packages to be stamped before sale at retail.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 23, 1914.

SIR: This office is in receipt of your letter of the 16th instant inquiring whether broken packages of chewing gum in the hands of retail dealers on December 1 are subject to tax under the act of October 22, 1914.

In reply, you are informed that in T. D. 19579, of June 27, 1898, referring to the act of June 13, 1898, it is stated that:

All chewing gum in the hands of manufacturers or wholesalers or retail dealers on the 1st day of July, 1898, is subject to the payment of the stamp tax.

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Since the provisions of the act of October 22, 1914, in relation to chewing gum are similar to the corresponding provisions of the act of 1898, it is held that the above-mentioned provision of T. D. 19579 also governs the enforcement of the present act, and, therefore, all chewing gum, though in broken packages, should be stamped before being sold at retail.

Respectfully, W. H. OSBORN,
Commissioner of Internal Revenue.

COLLECTOR INTERNAL REVENUE, *Toledo, Ohio.*

(T. D. 2077.)

Income tax.

The gain or loss resulting from the sale of capital assets and apportioned to the years subsequent to January 1, 1909, should be increased or decreased accordingly as there was gain or loss by the amount of depreciation charged off since January 1, 1909, and not used to make good such depreciation.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 21, 1914.

To collectors of internal revenue:

Article 110, page 66, of Regulations No. 33 should be, and is hereby, amended to read as follows:

ART. 110. For the purpose of determining the amount of profit or loss arising from the sale of capital assets acquired prior to January 1, 1909, which shall be taken into account by corporations in making their returns of annual net income, the gain or loss represented by the difference between the purchase price and the selling price shall be prorated according to the number of years the assets were held prior to their sale, and the amount thus apportioned or apportionable to the years subsequent to January 1, 1909, shall be included in or deducted from the gross income of the year in which the assets were sold, accordingly as they were sold for more or less than their original cost. To any gain thus apportioned and to be included in income there should be added any amount or amounts which had been charged against and deducted from gross income during the years since the inception of the special excise tax law, on account of depreciation and which had not been paid out in making good the depreciation—that is, any amount charged off subsequent to January 1, 1909, on account of the depreciation of the assets sold and not used to make good such depreciation shall be added to the gain apportioned to these years and will be included in the income of the year in which the property was sold. Likewise, for the purpose of a deduction from gross income of the year in which the assets were sold, loss resulting from any such sale, apportionable to the years subsequent to January 1, 1909, will be reduced by the amount of the unused portion of the depreciation charged off with respect to such assets since January 1, 1909.

This ruling, in so far as it relates to depreciation, applies only to such tangible property as is subject to wear and tear, exhaustion and obsolescence, and is not to be construed as recognizing any gain or loss due to fluctuations in the market value or arbitrary changes

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in the book value of securities and like assets, the gain or loss with respect to which will be determined only when such assets mature or are sold or disposed of—that is, when there is a completed, a closed, transaction. (See T. D. 2005.)

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2078.)

Emergency revenue law—Section 2.

Instructions for stamping bottles and other containers of wines, liqueurs, cordials, and similar compounds taxable under the act of Congress approved October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 28, 1914.

To collectors of internal revenue:

It is thought that producers, importers, and dealers in domestic and imported wines, liqueurs, cordials, and similar compounds are not stamping and have not tax paid all such goods sold, offered for sale or consumption on and after October 23, 1914, as required by the act of Congress approved October 22, 1914. The tax attached to all such goods October 23, 1914, and must be paid accordingly.

Still wines are all those which do not effervesce from natural or artificial carbonization.

Sparkling wines are all those which effervesce from natural or artificial carbonization.

Liqueurs, cordials, and similar compounds, it is believed, have been sufficiently classified for all practical purposes in T. D. 2050, which reads as follows:

Liqueurs, cordials, and similar compounds, as used in the act of Congress approved October 22, 1914, are not held to include alcohol, whiskies, rums, brandies, and gins, except when so compounded as to be known to the trade as cordials and liqueurs. Compounds classed by this office as medicines are also excepted. The word "liqueur," as defined by Webster, is an alcoholic aromatic cordial, and obviously a cordial is practically the same. It would appear, therefore, that the words "liqueurs, cordials, or similar compounds," under whatever name sold or offered for sale, would include those beverages commonly known to the trade as liqueurs and cordials. Further, the term "similar compounds" would appear to include vermuths and like wine compounds, bitters used as beverages, cocktails, maraschino, cordialized liquors, fortified fruit juices, and all other compounds the formulas of which, methods of preparation, or use, make them sufficiently like liqueurs and cordials to place them in the class with liqueurs and cordials.

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The rates on wines, liqueurs, cordials, etc., domestic and imported, (act of Oct. 22, 1914) are as follows:

Still wines	pint	$0.01
	quart	.02
	gallon	.08

In bottles containing less than pint, in proportion.

Champagne and other sparkling wines and artificially carbonated wines:		
One-half pint or less		.05
More than ½ pint and not more than 1 pint		.10
More than 1 pint and not more than 1 quart		.20
Larger quantities same rate.		
Liqueurs, cordials, and similar compounds:		
One-half pint		.01½
More than ½ pint and not more than 1 pint		.03
More than 1 pint and not more than 1 quart		.06
Larger containers	per gallon	.24

Under the statute sales may be made in any quantity of these taxable goods by producers, importers, and dealers to other dealers, including rectifiers, manufacturing chemists, and druggists, without payment of the tax by the vendor, but the purchaser when selling to a consumer (not a dealer) must pay the tax and affix the stamps to the bottles or other containers. It will thus be seen that it is the vendors to consumers who must pay the tax and affix and cancel the stamps, regardless of the quantity. The only exception in the statute is that of *still wines*, which are not subject to the tax when sold to a rectifier, manufacturing chemist, or druggist to be used in manufacturing *liqueurs*, *cordials*, or other similar compounds *taxed by this act*. Still wines are subject to the tax when used by rectifiers, manufacturing chemists, or druggists in manufacturing any compounds *not taxed* by this act. Still wines sold to tobacco or other manufacturers than those named and used by them in manufacturing any articles are subject to the tax, and same must be paid by the vendor to such consumer and the stamps be affixed accordingly to the bottle or other container.

A wholesale liquor dealer who is also a rectifier must record all purchases and sales of cordials in record Form 52. Those sold to himself as a rectifier, to be used in rectifying and blending, must be tax paid by him as vendor to a consumer and have stamps affixed to the containers. He is held to be the consumer, as he destroys the nature and identity of the cordials in rectifying and blending. Purchases and sales of wines by a rectifier must be recorded in a separate and special book, similar to Form 52, to be provided by him. This book will be open to inspection by internal-revenue officers. All wines sold to himself as a rectifier, to be consumed in rectifying and blending, must be tax paid and stamped by him, with the exception only of *still* wines used in manufacturing liqueurs, cordials, and similar compounds taxed by this act.

All taxable goods in the hands of consumers, such as rectifiers, manufacturing chemists, druggists, etc., on October 23, 1914, must be tax paid and stamped by them.

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Taxable goods in the stock room are not required to be stamped until sold or offered for sale or consumption. When therefore the taxable goods are removed to a retail room or department and sold or offered for sale or consumption, same must be tax paid and stamped. Bar bottles or other containers from which sales by the drink are made must be stamped and the stamps be completely effaced and obliterated when emptied. New stamps must be affixed at each refilling. If sales by the drink are made from large containers, such as wine kegs or barrels, they must be stamped. Bottles or jugs may be filled from large unstamped containers, such as barrels of wine, but the necessary stamps must be affixed to the bottles or jugs. See T. D. 2053 relative to affixing and canceling stamps on bottles or other containers of wines, liqueurs, etc., which reads as follows:

The act of Congress approved October 22, 1914, imposing taxes upon wines, liqueurs, and cordials is silent as to where such stamps must be affixed to the bottles or other containers. It is held, therefore, that these stamps must be affixed conspicuously to the bottles or other actual containers of the wines and cordials and must be canceled by the person affixing same, and that the initials of the person, as well as the date when affixed, must be written or stamped indelibly upon the adhesive stamp. When the bottle or other container to which the stamp is affixed is empty, the person emptying the same must completely efface and obliterate the adhesive stamp or stamps, as the case may be.

Cocktails compounded by bartenders for immediate consumption by customers from glasses need not be tax paid.

Miniature bottles of taxable goods for display purposes or use of drummers need not be stamped, but must be filled from stamped containers, and each must have a certificate attached to that effect. Such bottles for liqueurs and cordials should not contain more than 2 ounces and those for wines not more than 4 ounces.

The particular attention of producers, importers, and dealers who sell to consumers is called to the fact that the statute imposes the duty of tax payment and affixing stamps upon them. The absence of stamps on any bottle or other container of wines, liqueurs, cordials, and similar compounds taxable under this act, sold or offered for sale or consumption, is prima facie evidence that the tax has not been paid and all such goods shall be forfeited to the United States. Severe penalties are also imposed for failure to cancel such stamps. It may be stated that it is a rule of evidence that all are presumed to know the law and a plea of ignorance thereof is no excuse.

Collectors will give immediate attention to this matter and see that the law is fully complied with and that these taxes are duly and fully collected.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
WM. P. MALBURN,
Acting Secretary of the Treasury.

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(T. D. 2079.)

Income tax.

Income tax liability and withholding requirements in connection with quarters, heat and light, mileage, reimbursement for actual expenses, and per diem allowances in lieu of subsistence while traveling under orders, furnished or paid by the Government to officers and employees.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 24, 1914.

To collectors of internal revenue:

All decisions and regulations which are in conflict with the holdings that follow are hereby revoked.

(*A*) *Income tax liability.*

(1) *Quarters.*—Commutation of quarters and the money equivalent of quarters furnished in kind shall be returned as income.

When quarters are furnished in kind, of a less number of rooms than the number allowed by law, the money equivalent only of the number of rooms actually assigned shall be returned as income. When quarters are furnished in kind, of a greater number of rooms than the number allowed by law, it is to be assumed that the excess number is assigned for the convenience of the Government, and the money equivalent only of the number of rooms allowed by law shall be returned as income.

(2) *Heat and light.*—Amounts received by, or paid for, an officer for heat and light shall be returned as income.

This includes the money equivalent, as fixed by the Government, of heat and light furnished to an officer occupying public quarters.

(3) *Mileage.*—The difference between the amount received as mileage and the amount of actual necessary expenses incurred on a journey shall be returned as income.

Mileage, as such, is not gain, profit, or income to the officer, as he is required to pay his actual expenses while traveling under mileage orders. The gain, profit, or income is the difference between the amount received as mileage and the amount properly expended by the officer while traveling, and this difference only should be returned as income.

The actual expenses to be deducted by the individual before ascertaining his gain, profit, or income on account of mileage are the expenses for which reimbursement would be made by the Government if he had traveled on an actual expense basis instead of a mileage basis.

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(4) *Reimbursement for actual expenses.*—Amounts paid by the Government in the nature of reimbursement for subsistence and other items of actual expenses incurred while absent on business for the Government are not required to be returned as income.

(5) *Per diem allowances in lieu of subsistence while traveling under orders.*—The difference between the amount received as a per diem allowance and the amount of actual necessary expenses incurred on a journey shall be returned as income.

(*B*) *Withholding requirements.*

Payments in connection with (1) quarters, (2) heat and light, (3) mileage, (4) reimbursement for actual expenses, and (5) per diem allowances in lieu of subsistence while traveling under orders are indefinite and irregular as to right of possession, amount, and time of accrual, and are not, therefore, subject to withholding as "fixed or determinable annual or periodical gains, profits, and income" under the requirements of the income-tax law.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2080.)

Emergency revenue law.

Instructions relative to accounts and reports of any assistant treasurer of the United States, or designated depositary thereof, or any postmaster furnished with wine, documentary, or proprietary stamps under the provisions of section 10, act of October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 4, 1914.

To collectors of internal revenue:

Whenever, under the provisions of section 10, act of October 22, 1914, collectors furnish to any assistant treasurer of the United States, or designated depositary, or any postmaster, wine, documentary, or proprietary stamps without prepayment, they should open accounts with them in Record No. 43 and require monthly reports similar to those received from their stamp deputies.

In order to avoid double shipment of forms and records, collectors should make requisition on this office in the case of each assistant treasurer, depositary, or postmaster procuring stamps, to supply

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direct the following forms and records, naming the quantity of each required:

For wine stamps.—Record 147, daily record of wine stamps sold; Form 102–K, deputy collector's report of wine stamp transactions; Form 427–B, purchaser's requisition for wine stamps.

For documentary and proprietary stamps.—Record 103, daily record of documentary stamps sold; Record 104, daily record of proprietary stamps sold; Form 427, purchaser's requisition for documentary stamps; Form 427–A, purchaser's requisition for proprietary stamps; Form 451, deputy collector's report of proprietary stamp transactions; Form 452, deputy collector's report of documentary stamp transactions; Form 459, schedule of sales of documentary and proprietary stamps on which discount was allowed.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2081.)

Emergency revenue law—Judgment notes.

Clause in promissory notes authorizing confession of judgment is not taxable as a power of attorney.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 8, 1914.

SIR: In reply to your letter of the 19th ultimo, you are informed that where judgment notes, so called, contain a clause authorizing any attorney at law to confess judgment in favor of the holder of the note, such authorization is held not taxable as power of attorney in addition to the tax required on the judgment note as a promissory note.

The instrument is held to be a warrant of attorney instead of a power of attorney. Treat, Collector, *v.* Tolman (113 Fed., 892). Any ruling to the contrary is hereby revoked.

Simply crediting interest quarterly on a note is not considered a renewal of the note.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

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(T. D. 2082.)

Emergency revenue law—Stamping display containers.

Relative to stamping display containers in which small articles are customarily displayed for sale and retained in the container until disposed of.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 3, 1914.

To collectors of internal revenue, revenue agents, and others concerned:

The provision of the regulations authorizing the stamping of display cards to which small articles are affixed in lieu of stamping each separate article is extended to cover other display containers in which small articles are customarily displayed for sale and retained in the container until disposed of.

Several different lines of samples have been exhibited to this office to which it is impracticable, because of minute size, construction, or material, to affix even the smaller caution label provided in the regulations for free samples. In such cases the full caution notice provided in the regulations should be prominently affixed to the box in which such samples are packed and from which they are distributed to the public.

The regulations are modified accordingly.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

(T. D. 2083.)

Emergency revenue law—Special tax.

Real estate agents engaged in negotiating upon a commission purchases and sales of real estate, collecting rents, etc., do not incur liability as brokers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 8, 1914.

GENTLEMEN: Replying to your communication of the 30th ultimo you are informed that real estate agents engaged in negotiating, upon a commission, purchases and sales of real estate, collecting rents, etc., do not incur liability as brokers under the provisions of section 3, act of October 22, 1914. However, if in connection with such business they engage in negotiating purchases or sales of promissory notes, deeds of trust, mortgages, etc., then special-tax liability as brokers is incurred. Further, if they also engage in the brokerage business

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of negotiating sales of goods, wares, and merchandise additional special-tax liability as commercial broker is incurred.

Respectfully, W. H. OSBORN,
Commissioner of Internal Revenue.

The ——— ——— Co., *Dayton, Ohio.*

(T. D. 2084.)

Emergency revenue law—Liabiltiy as commission merchants.

Relative to liability as commission merchants of the customers of various firms through their method of handling goods of these firms.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 7, 1914.

SIR: Referring to your personal visit to this office relative to the alleged liability of the customers of ——— through their method of handling goods of that firm, you are advised that it is the understanding of this office from your statements and papers submitted that ——— receive orders from druggists, country merchants, and others for boxes of assorted seeds which are furnished them upon an agreement or contract that the seeds sold shall be paid for at the end of the season, less certain specified discounts, and that unsold seeds may be returned to ———.

The question of the status of a transaction of this character has been before the Supreme Court of the State of Alabama, which decided in effect that such transactions did not involve liability as commission merchants, in which view this office concurs, and it is, therefore, held that special-tax liability as commission merchants is not incurred by the customers of ——— under the act of October 22, 1914, and under conditions noted.

Respectfully, W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2085.)

Emergency revenue law—Powers of attorney.

Powers of attorney for transfer of stocks and bonds under certain conditions not subject to tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 9, 1914.

SIR: This office is in receipt of your letter of the 30th ultimo, asking for a ruling under Schedule A of the act of October 22, 1914. You make the following inquiry:

1. Does the tax of 25 cents imposed in Schedule A on powers of attorney "to transfer any stock" apply to the power of attorney to transfer stock on the books of the

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corporation embodied in the form of assignment of stock which is in common use and printed on the back of the stock certificates?

In T. D. 2056 it was held that, where such a blank form of power was filled in with the name of the secretary, it was a mere formal power authorizing the secretary to do what would be his duty in any event if no power of attorney appeared upon the certificate.

Where the owner of a certificate of stock executes the assignment printed on the reverse thereof and the stock is delivered, the registry of the transfer on the books of the corporation is in substance a purely corporate act, in which neither the former owner nor the new is required, or ordinarily does, participate, and that the power of attorney included in the ordinary form of assignment of stock does not authorize or empower any person to do anything which could not be done or compelled to be done on a pure assignment unaccompanied by a power of attorney.

This same question has arisen with respect to the combined assignment and power of attorney printed on the reverse of bonds.

It is held, therefore, that the pro forma power of attorney to transfer bonds or stock on the books of the corporation embodied in the assignment printed on the back of the bond or stock certificate is not subject to the tax.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2086.)

Emergency revenue law— Witch-hazel.

Instructions as to the handling of witch-hazel for medicinal use, not taxable under the act of October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 10, 1914.

SIR: Referring to your visit of recent date, you are informed that extract of witch-hazel removed from the factory and sold to barbers, barbers' supply houses, or others, to be used or labeled as a toilet water, must be duly tax paid and have the stamps affixed to the containers, regardless of the size of same. Where, however, extract of witch-hazel is removed from the factory in bulk for shipment or sale to druggists and portions will be sold for medicinal purposes and portions sold as toilet water, the same need not be tax paid and stamped by the manufacturer. In such case the person thus receiving the goods and drawing same off and labeling them for sale must

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pay tax and affix the stamps to the smaller containers into which drawn of such portion as is sold as toilet water. In case of such removal of bulk goods from the factory for shipment to druggists there should be affixed to the bulk package a label reading as follows:

These goods are removed from the factory in an unfinished condition and need to be drawn off into smaller bottles, labeled in the name of the person thus drawing off, wrapped and otherwise put in a salable condition. Notice is hereby given to the person thus drawing same off, labeling, packing, and placing them in a salable condition, that the tax must be paid on such portion as is sold as toilet water or without medicinal claims, and the necessary stamps be affixed to the bottles or other containers into which same are drawn. The portion sold for medicinal purposes need not be tax paid and stamped.

The label should be dated and signed by the manufacturer.

It may be stated that witch-hazel commonly used for medicinal purposes and sold under appropriate labels is not held to be taxable under Schedule B of the act of Congress approved October 22, 1914. When removed or sold as a toilet water in its ordinary condition or colored and perfumed it is held to be taxable under said act.

Witch-hazel removed from the factory for purely medicinal purposes is not taxable.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2087.)

Emergency revenue law—Schedule A.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 11, 1914.

To internal-revenue officers and others concerned:

With reference to that provision of Schedule A of the internal-revenue act of October 22, 1914, which provides that "certificates of any description required by law not otherwise specified in this act" are subject to a tax of 10 cents, this office holds that the first requirement necessary to subject any given certificate thus generally described to tax is that it shall be one which is required to be given by law—National, State, or municipal. That is, the issuance of the certificate must be mandatory under conditions or circumstances prescribed by law or it must be one which the individual is expressly authorized to demand and receive. All such certificates are taxable except those which are given strictly in the exercise of the functions—governmental, taxing, or municipal—of the Government, State, or other political subdivision.

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It is further held that certificates which are not required by express statute, but are required by regulations of this or any other executive department, although such regulations ordinarily have the force and effect of law, are not certificates required by law within the meaning of the said act, it being held by this office that Congress did not intend to authorize Government departments to extend taxation by multiplying regulations. Income-tax certificates, drawback certificates, and various other certificates required by regulations are, therefore, not taxable.

A simple acknowledgment or jurat before a notary public or other officer authorized to administer oaths is not taxable.

Certificates required by law issued by any department or officer of the Government at the request of private persons, solely for private use, should be stamped.

Certificates of national banks specifically required by statute to be rendered to the Comptroller of the Currency are taxable.

Certificates issued by State or municipal officers showing the authority of the person before whom an instrument is attested are taxable.

Warehouse certificates, if required by law, are taxable.

A certificate of title or search carrying with it a guaranty of title and assuming liability for any loss incurred through a flaw in the title is held to be a bond of insurance and subject to a tax of one-half of 1 cent on each dollar charged for its guaranty provision.

A certificate of search showing that the dockets or records of a court have been searched, and showing either that liens exist or do not exist as to the property, or that judgments are recorded or are not recorded, and also certificates of search to ascertain whether or not titles are good, whether taxes have been paid, and other certificates of this character are not such as are required in the general discharge of governmental functions on the part of the officers giving them, but are such as are needed for private use and private interests, and are, therefore, subject to tax if the law requires they shall be issued upon demand therefor; otherwise exempt.

Documentary stamps should be affixed to certificates or other instruments issued for private use prior to their delivery, such stamps to be furnished by the parties applying for such certificates or instruments.

From among many certificates concerning which inquiry has been made especial reference is made to the following, which, under the conditions stated, this office holds are exempt:

(1) *Certificates for use of the Government (Federal, State, or local).*—Such certificates are exempt. For example, certificates of officers of the United States or any State, county, town, municipal corporation, or other corporation exercising the taxing power, given in the dis-

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charge of official functions necessary in carrying on the machinery of the Government; certificates of election; certificate of court officer under direction and authority of the court, and which is necessary to give proper effect to the court proceedings; court processes, such as summonses, writs of attachments, subpœnas, warrants, orders of the court, etc.; returns or reports made to the Government for its own use, such as income and special tax returns, applications for licenses, reports made to the Interstate Commerce Commission, reports made to the Comptroller of the Currency, and to other branches of the Federal or State Governments for governmental purposes or use; certificates issued at tax sale or certificates of redemption from tax sales.

(2) *Certificates given for a public purpose.*—Such certificates are exempt when required in the interest of the public health, safety, or welfare. For example, certificates such as by inspectors of steam vessels, locomotives, boilers, power plants, factories, meats, food products, lading of inflammables or explosives, births, marriages, deaths, quarantine, health, etc.; but such certificates are required to be stamped, as are all authenticated copies thereof, when issued to private parties for *personal* use if, under any law, they are required to be issued upon demand; certificates issued by health officers relative to State statutes regulating employment of child labor; certificates given under State laws by inspectors and weighers of grain; and teachers' certificates, are exempt.

(3) *Licenses.*—Licenses or certificates of authority to engage in any occupation or business or to perform any act issued under authority of any State, county, or municipal enactment, as well as applications or returns therefor, are not subject to tax. Such instruments include marriage licenses, automobile licenses, liquor dealers' licenses, certificates of authority to insurance companies and agents, and other similar documents.

Any previous rulings in conflict herewith are hereby revoked.

W. H. Osborn,
Commissioner of Internal Revenue.

(T. D. 2088.)

Emergency revenue law—Brokers' notes or memoranda.

Treasury Department,
Office of Commissioner of Internal Revenue,
Washington, D. C., December 11, 1914.

Sir: Referring to your personal visit relative to the letter received by you from Messrs. ———, commercial brokers, in the matter of the tax imposed by the act of October 22, 1914, on "broker's notes or

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memoranda," I have the honor to advise you that the tenth paragraph of Schedule A reads as follows:

> Contract: Broker's note, or memorandum of sale of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind or description issued by brokers or persons acting as such, for each note or memorandum of sale, not otherwise provided for in this act, 10 cents.

It will be noted that the law does not define the instrument taxed as a broker's note or memorandum, and so far as this office has been able to learn there is no definite instrument generally or commercially known as a "broker's note or memorandum."

This office is therefore compelled to arrive at the meaning of Congress from extrinsic sources.

In paragraph 1 of Schedule A it is provided that on the sale and delivery of stocks assigned in blank, the seller (usually a broker) must deliver to the buyer a bill or memorandum of such sale, to which the stamps covering the transfer tax shall be affixed. Again, in paragraph 2, relating to goods sold on an exchange, it is provided that the seller (a broker) must make and deliver to the buyer a bill, memorandum, or other evidence of such sale, to which the stamp, representing the tax on such sale (if made for future delivery), must be affixed.

The paragraph under consideration taxes brokers' notes or memoranda "not otherwise provided for in this act" and the two instances noted are the only ones in which anything to which the term "broker's note or memorandum" could be applied, and it is believed that the term covers instruments of the same character as those more specifically described in the paragraphs named.

It is, therefore, held that a "broker's note or memorandum" within the meaning of the act is any instrument or writing given by the seller, when a broker or person acting as such, to the buyer of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind or description evidencing or confirming the sale.

Except in the case of stocks sold and assigned in blank and merchandise sold on an exchange, there is no requirement in the law that such a note or memorandum be given to the buyer, but if given it must bear the 10-cent stamp, unless stamped at the appropriate rate covering sales of stock or merchandise.

It will be noted that it is the note or memorandum given to the buyer, and not to the person for whom the broker is acting in making the sale, which requires the stamp.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

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(T. D. 2089.)

Emergency revenue law—Receipt for adhesive stamps.

Collectors of internal revenue should sign vouchers evidencing receipt of money for adhesive stamps whenever requested to do so by the purchasers of such stamps.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 12, 1914.

To collectors of internal revenue:

Many complaints have been received by this office that collectors of internal revenue refuse to sign vouchers evidencing the payment for adhesive stamps delivered by them. Such vouchers, in many cases, are necessary to agents and representatives of individuals, corporations, etc., in the settlement of their accounts, and collectors should, therefore, as a rule, sign vouchers evidencing the delivery of adhesive stamps upon request.

Section 3183, Revised Statutes, prohibits a collector from issuing a receipt in lieu of a stamp representing a tax, but the receipts above mentioned, evidencing delivery of stamps, are in no sense issued in lieu of the stamps.

In the absence of any good reason for refusal to do so, collectors will be expected to sign vouchers presented evidencing the delivery of adhesive stamps when requested to do so.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2090.)

Income tax.

Synopsis of rulings on questions relating to the income tax imposed by section 2 of the act of October 3, 1913.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 14, 1914.

The following synopsis of rulings on questions relating to the income tax imposed by section 2 of the act of October 3, 1913, on individuals, corporations, joint stock companies, associations, and insurance companies, is published for the information of internal-revenue officers and others concerned. All rulings or parts of rulings heretofore made which are in conflict herewith are hereby revoked.

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PART I.

RULINGS IN RELATION TO PERSONAL INCOME TAX.

Actors and actresses.—If costumes purchased by actors and actresses are used exclusively in the production of a play, and are not adapted for occasional personal use and are not so used, a deduction may be claimed on account of such depreciation in their value as occurs during the year on account of wear and tear arising from their use in the productions of the play or to their becoming obsolete at the close of the production.

Administration of estates, expenses of.—Expenses of administration of an estate, such as court costs, attorneys' fees, executors' commissions, etc., are chargeable against the corpus of the estate and are not allowable deductions in a return of a fiduciary on Form 1041.

Administrators.—See Executors and administrators.

Agent.—The word "agents" as used in paragraphs D and E of the income-tax law in connection with the words "control, receipt, custody, disposal or payment of income to another person," does not relate to agents not acting in a fiduciary capacity. Agents not acting in a fiduciary capacity have no responsibility with reference to withholding the tax on, or making a return of, income turned over to resident aliens or citizens of the United States; but the responsible heads, agents, or representatives of nonresident aliens who are in charge of property owned, business carried on, or capital invested within the United States, shall make full and complete returns of the income therefrom on Form 1040, revised, and pay the tax thereon. See Nonresident alien, agent of.

Agent, real estate.—See Real estate agent.

Agent for nonresident alien.—See Nonresident alien, agent of.

Aids' pay.—See Pay.

Alimony.—Alimony is regarded as fixed and determinable income, and in cases where it is in excess of $3,000 the person paying such alimony is required to withhold the normal tax on the same unless exemption is claimed under paragraph C, in which case the normal tax will be withheld only on the amount paid in excess of the exemption claimed. It must be accounted for as income if, together with other income, the recipient is in receipt of a net income of $3,000 or more. It is regarded as a personal expense to the person paying it and is, therefore, not an allowable deduction in his return.

Annuity.—The amount paid under a life insurance, endowment, or annuity contract is not income when returned to the person making the contract, either upon the maturity or surrender of the contract; but the amount by which the sum received exceeds the sum paid and coming into the hands of the person making the contract and

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payment is income. When the settlement under such a contract is made in more than one payment each payment will be considered as being composed of interest and a proportionate part of the principal. Where the entire annuity is composed of an interest return upon the principal sum paid therefor, the entire annuity is income.

Assessments on stock.—Assessments made by a corporation on its capital stock are regarded as an investment of capital and do not constitute an allowable deduction in the return of the individual.

Bad debt.—See Debt.

Beneficiary.—A beneficiary is liable for the normal tax upon the amount of net income derived by him from a taxable source through a fiduciary, less the amount of exemption claimed and the amount of income on which the normal tax has been withheld at source, and is also liable for the additional tax assessable on the amount of net income received by him in excess of $20,000; and in order to determine whether the net income of a beneficiary is or is not in excess of $20,000 and subject to the additional tax, the amount derived by him from an estate and all other taxable sources is required to be shown on his personal annual return.

Board of education, requirements of, with reference to withholding.—See Rent.

Bond, premium on.—Where an employee is required to furnish bond and pay the premium on such bond, as a necessary incident of his employment, the premium on the bond will constitute an allowable deduction in computing net income.

Bonds containing tax-free covenant clause.—The stipulation in bonds whereby the tax which may be assessed against them, or the income therefrom is guaranteed, is a contract wholly between the corporation and the bondholder, and in so far as the income-tax law applies, the Government will not differentiate between coupons from bonds of this character and those from bonds carrying no such guaranty. The debtor corporation or its duly authorized withholding agent will be held responsible for the normal tax due in such cases when no exemption is claimed. When coupons are accompanied by certificates of ownership in which no exemption is claimed, the income from such coupons may be included in the return of the individual (under column A, p. 2, of Form 1040, revised) as income upon which the normal tax of 1 per cent has been paid or is to be paid at the source. (T. D. 1948.)

Bonds, interest on.—The exchange of interest coupons for funding bonds is a payment of interest on the bonds and the income tax should be imposed and paid upon such interest as income for the year in which it matures and such payment is made, and in the absence of proper claim for exemption the tax should be deducted and withheld on the amount represented by the coupons.

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Book value.—Book values which reflect a shrinkage in the value of assets are not a basis for determining taxable income. (T. D. 2005.)

Certificate of merit, pay for.—See Pay.

Certificate of ownership.—Where bonds, under contract provisions in the bonds, are retired within an interest period and prior to the expiration of the full term of the bond, ownership certificates will be required and should cover that part of the interest period affected between the beginning of such period and the date of the retirement of the bonds.

Certificates.—The department will furnish blank forms of certificates to be used in connection with the collection of the income tax by such parties as may make application for the same. Private corporations and others desiring to have these certificates printed for themselves may do so if they will strictly observe the requirements of the department as to size, print, form, color, and contents. (T. D. 1939.)

Certificates to be used in claiming exemption from withholding on income derived from foreign sources.—See Income derived from coupons, checks, etc.

Citizenship.—An American woman who marries a foreigner takes the nationality of her husband and can not claim exemption under paragraph C.

Clubs.—All clubs are not exempt from the provisions of the income-tax law, even though not operated for profit. A club desiring to be registered as an exempt organization should file with the Commissioner of Internal Revenue a copy of its charter, or an affidavit of its principal officer, setting forth the nature of its organization, the purpose for which organized, the source, if any, from which it derives income, and the disposition made of such income as is received by it for consideration and determination as to whether or not it comes within the class of organizations held to be exempt under the provisions of paragraph G of the income-tax law.

Commission.—A commission paid to a real estate agent for collecting rents and management of property is a legitimate business expense and constitutes an allowable deduction in computing net income.

Commission on renewal premium.—See Renewal premium.

Commissions.—See Compensation.

Commissions paid salesmen.—Commissions paid to salesmen as a part of the expense of conducting business are allowable deductions to the payer of the commission. Such commissions, however, are income and should be accounted for in the return of the person receiving them. When indefinite as to amount and time of accrual, they are not subject to withholding.

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Commutation of heat and light.—Amounts paid on account of commutation of heat and light are not subject to withholding. (T. D. 2079.)

Commutation of quarters.—Payments made on account of commutation of quarters are not subject to withholding. (T. D. 2079.)

Compensation.—(1) A person receiving a salary in excess of $4,000, and, in addition, a commission of 1 per cent on all sales, the exact amount due on account of commissions not being determinable until February following the year in which the commissions were earned, at which time both his salary for the preceding year and his commissions are paid to him, should return as income, for the year in which payment was made, the aggregate amount received on account of salary and commissions. The normal tax should be deducted and withheld therefrom when the combined payments of salary and commissions aggregate in excess of $3,000, subject to authorized exemption claimed. The normal tax deducted from these payments should be accounted for on the withholding agent's return, Form 1042, for the year in which the deductions were made.

(2) Where an employee is paid a sum equal to two years' salary on condition that he surrender his contract of employment, such sum should be reported by him on his annual return as income, and if the sum paid exceeds $3,000, the normal tax should be deducted and withheld therefrom, subject to authorized exemption claimed.

(3) When profits distributed by a corporation to an employee, together with payments of the employee's salary, aggregate in excess of $3,000, the normal tax should be deducted and withheld therefrom, subject to authorized exemption claimed.

Compensation for service upon an annual, monthly, or weekly basis.—Where a service and payment period is divided by the end of a taxable year, the compensation for the period so divided at the end of the year will be accounted for in the return for the year in which payment is made and received. Where the service is of such nature as to be compensated by fee, or of such nature that no portion of the amount becomes due until the service is completed, then the total amount of the compensation should be included in the return for the year in which the compensation is received.

Compensation, value of quarters furnished, part of.—Where an individual is furnished living quarters in addition to salary, the rental value of such living quarters is regarded as compensation subject to the income tax.

Corporation notes for a period of one year or less.—See Promissory note of corporations.

Corporations, equipment trust notes of.—See Equipment trust notes.

Corporations, obligations of.—Obligations of corporations similar to bonds, mortgages, deeds of trust, etc., for income-tax purposes are

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held to be those obligations of corporations which, though not bonds, mortgages, or deeds of trust, are similar in form, purpose, or in being extended beyond the time of ordinary bankable commercial paper. Interest payments on ordinary bankable commercial paper of corporations payable to individuals are subject to withholding at the source only when the payment to any one individual within a taxable year exceeds $3,000. On all other obligations of corporations, etc., payable to individuals, interest payments are subject to withholding regardless of the amount of interest payment. See Mortgage, property purchased subject to.

Corporations, principal place of business of.—The principal place of business of a corporation is the place or office in which are kept the books of account and other data from which the return is to be prepared.

Corporations, property purchased by, subject to mortgage.—See Mortgage, property purchased subject to.

Corporations, residence of.—Corporations whose business is done *wholly* in Porto Rico and the Philippine Islands, even though incorporated in the United States, are held to be resident corporations of these possessions, and will make returns and pay the income tax to the collectors of internal revenue having jurisdiction there.

Costumes.—See Actors and actresses.

Debt.—A bad or worthless debt, as contemplated by the income-tax law, and which may be deducted in a return of income, is a debt which has been actually ascertained to be worthless and charged off within the taxable year.

Decedent, return of a.—See Executors and administrators.

Deductions, paragraph B.—(1) Necessary expenses actually paid in carrying on any business, not including personal, living, or family expenses.

(2) All interest paid within the year by a taxable person on indebtedness.

(3) All National, State, county, school, and municipal taxes paid within the year, not including those assessed against local benefits.

(4) Losses actually sustained during the year incurred in trade or arising from fires, storms, or shipwreck and not compensated for by insurance or otherwise.

(5) Debts due to the taxpayer actually ascertained to be worthless and charged off within the year.

(6) A reasonable allowance for the exhaustion and wear and tear of property arising out of its use or employment in the business not to exceed, in the case of mines, 5 per cent of the gross value at the mine of the output for the year for which the computation is made; but no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an

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allowance is or has been made; provided that no deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments made to increase the value of any property or estate. (See Paragraph B, sec. 2, act of October 3, 1913.)

Depreciation.—See Actors and actresses.

Dividends declared by foreign corporations transacting business wholly within the United States.—See Foreign corporations, property owned and business transacted wholly within the United States.

Drainage, irrigation, and reclamation districts, interest on bonds of.—See Special assessment districts.

Employees, foreign, of domestic corporations.—See Foreign employees of domestic corporations.

Equipment trust notes.—Equipment trust notes secured by mortgage issued by a corporation are subject to withholding. Temporary receipts issued pending preparation and issue of the notes themselves stand in the place of the notes, and where an interest period intervenes and receipts are to be presented for indorsement thereon of a payment of interest, requisite certificates of ownership claiming or not claiming exemption should be filed.

Executors and administrators.—If the net income of a decedent from January 1 of the year in which he died to the date of his death was $3,000 or over, a return for such decedent must be made by the executor or administrator on Form 1040, revised, and such executor or administrator may claim all deductions and exemption to which the decedent would have been entitled under the law.

Exempt organizations.—Any organization which has been held by the Commissioner of Internal Revenue to come within the class of organizations enumerated in paragraph G of the income-tax law is not required to deduct and withhold the normal tax from the amount of any salary or interest paid by it, and it is subject to no requirements of said law. However, the owner of bonds issued by such an organization is not relieved from the filing of certificates of ownership, with coupons detached from such bonds when presenting same to a bank or other collecting agency for collection or otherwise, or to the debtor corporation or its duly designated paying agent for payment; and while such an organization as the source of income is under no obligation to withhold the tax in cases where no exemption is claimed, it should, nevertheless, forward with a letter of transmittal such certificates as are received by it to the collector of internal revenue for its district on or before the 20th day of the month next succeeding that in which the said certificates were received. No special form of certificate has been issued for presentation with coupons detached from bonds of exempt organizations, but certificates in the usual form, claiming or not claiming exemption, may be used. (T. D. 1967.)

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Where such organizations have an issue of registered bonds, they should, before sending out checks issued in payment of registered interest, stamp or write across the face of such check, "Corporation exempt under paragraph G from withholding;" otherwise the first bank or collecting agent would deduct and withhold the normal tax therefrom.

Exempt organizations, salaries paid by.—Salaries paid by corporations which corporations have been held to be exempt from the income tax under paragraph G of the income-tax law, are subject to the income tax and should be returned as income by the individual, but the corporation is not required to withhold the tax.

Exemption and deductions allowed in the return of a decedent.—See Executors and administrators.

Exemption, husband and wife.—See Husband and wife.

Exemption on income received from partnerships.—See Partnerships, identity of income.

Expense.—Taxes paid by a tenant to a landlord are considered as additional payment for rent and are deductible as an expense of carrying on business.

Failure to render a return, penalty for.—Every person having a net income of $3,000 or more for the calendar year is required to render a return, and the penalty provided by law for refusal or neglect to file a return will be enforced regardless of the fact that the net income may be less than the exemption to which the individual is entitled.

Farm buildings, depreciation of.—Depreciation of farm buildings, other than a dwelling occupied by the owner, actually sustained within the year in excess of repairs made, will be considered an allowable deduction.

Fiduciary.—"Fiduciary" is a term which applies to all persons or corporations that occupy positions of peculiar confidence toward others, such as trustees, executors, or administrators; and a fiduciary, for income-tax purposes, is any person or corporation that holds in trust an estate of another person or persons.

There may be a fiduciary relationship between an agent and a principal; but the word "agent" does not denote a "fiduciary" within the meaning of the income-tax law.

Fiduciary, return of.—Fiduciaries are required to make a return on Form 1041, revised, whenever the interest of any one beneficiary in the income from the estate or trust subject to the normal tax is in excess of $3,000. This duty can not be delegated to another person. When the interest of any one beneficiary exceeds $3,000 and a return is required, the name and full address of each beneficiary and the share of income to which entitled, even though it be less than $3,000, must be shown; and in all cases where the beneficiary's interest is in excess of $3,000 the fiduciary is required to withhold the normal tax

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unless exemption is claimed under paragraph C, and then only on the amount in excess of the exemption so claimed.

A fiduciary acting for a beneficiary in more than one estate or trust is required to account for each estate separately, and if the amount of income from no one estate exceeds $3,000 no return or withholding will be required. Unless the beneficiary is under some disability which requires the fiduciary to act, the beneficiary will make his own return and account for the tax upon his entire net income.

A fiduciary acting for a minor or insane person having a net income in excess of $3,000 will make the return for his ward on Form 1040, revised, and will not be required to file a return on Form 1041, revised, unless he has more than one ward by reason of the same estate or trust. Then, in that event, a return will be required on Form 1041, revised, and a separate return on Form 1040 for each ward having a net income of $3,000 or more for the calendar year.

Dividends in the hands of a fiduciary and belonging to a beneficiary are not subject to the normal tax, but will be subject to the additional tax to the beneficiary whenever the beneficiary's income from all taxable sources is in excess of $20,000. (T. D. 1943.)

Fire-insurance policy, premiums paid on.—See Insurance premium.

Foreign corporations, interest on bonds of.—See Income derived from coupons, checks, etc.

Foreign corporations, property owned and business transacted wholly within the United States.—Dividends declared and paid by a foreign corporation which derives its entire income from business done wholly within the United States and pays, under the provisions of the Federal income-tax law, a tax upon its net income, should be treated in the same manner as dividends from domestic corporations.

Foreign employees of domestic corporations.—Salary received by a foreign employee of a domestic corporation for services rendered entirely in a foreign land is not subject to deduction and withholding of the normal tax at source.

Foreign mortgages, income from.—See Income derived from coupons, checks, etc.

Foreign service pay.—See Pay.

Gift, property acquired by.—The value of property acquired by gift is not subject to income tax, but all gains, profits, or income derived therefrom are subject to tax, and if the property so acquired is subsequently sold at a price greater than the appraised value at the time the property was acquired by gift, the gain in value is held to be income and subject to tax under the provisions of the Federal income-tax law.

Gifts.—See Voluntary offering.

Gratuity.—Where the monthly salary of an officer or employee is paid for a limited period after his death to his widow in recognition

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of the services rendered by her husband, no services being rendered by the widow, it is held that such payment is a gratuity and exempt from taxation under the income-tax law. Such a payment would not, however, be an allowable deduction as an expense of carrying on business in the return of the person, firm, or corporation paying same.

Guardian, return of.—See Fiduciary, return of.

Heat and light.—Amounts received by or paid for an officer for heat and light shall be returned as income.

This includes the money equivalent, as fixed by the Government, of heat and light furnished to an officer occupying public quarters. (T. D. 2079.)

Heat and light, commutation of.—See Commutation of heat and light.

Husband and wife.—Where either dies during the year having a net taxable income of $3,000 or more a return of income should be made by the executor or administrator of the deceased as of the date of his death, and the executor or administrator may claim an exemption of $4,000 under paragraph C. The survivor, when making a return at the end of the year for the entire year, will be allowed the applicable exemption for the single or married status existing at the close of the year.

Husband and wife, additional tax computed on separate income of.—The regulations of the department requiring the incomes of husband and wife to be combined and authorizing the aggregate exemption of $4,000 from such combined income are applicable for the purpose of the *normal tax only*. The additional, or surtax, imposed by the act will be computed on the basis of the separate income of each individual; that is, on the amount of each individual's income in excess of the minimum amounts upon which the surtax at the graduated rates is to be calculated.

Income derived from coupons, checks, or bills of exchange on foreign bonds, mortgages, dividends, etc.—Amounts received by citizens or residents of the United States for or in payment of interest upon bonds issued in foreign countries, and upon foreign mortgages or like obligations, and for any dividends upon stock or interest upon obligations of foreign corporations, associations, or insurance companies engaged in business in foreign countries, are subject to the income tax. (Art. 54, regulations No. 33.)

The licensed person, firm, or corporation first receiving such foreign item for collection or otherwise shall withhold therefrom the normal tax of 1 per cent and will be held responsible therefor unless exemption is claimed.

If the foreign item is in the form of a check or bill of exchange, the words "Income tax withheld by ———" (giving name, address, and date), or the words, "Income-tax exemption claimed through ———" (giving name and address of licensee), as the case may be,

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shall be indorsed or stamped thereon by such licensee; but if the item is represented by a coupon or coupons from bonds, the licensee shall attach thereto a statement identifying the same, and the indorsement or stamp showing the tax withheld or exemption claimed shall be placed on the statement instead of the coupon or coupons.

Such indorsement or stamp shall be sufficient evidence of tax withheld or exemption claimed to relieve subsequent holders or purchasers from the obligations of withholding. (T. D. 2023, arts. 60–61, regulations 33.)

Claims for exemption from withholding on income other than from interest on bonds may be made by individuals or Form 1007; by firms, organizations, or fiduciaries on Form 1063; claims for exemption from witholding on interest from bonds may be made by individuals on Form 1000B; by firms and organizations on Form 1001; and by fiduciaries on Form 1015. (T. D. 1998.)

Insurance premium.—Premiums paid for insurance on property which is not occupied by the owner as a dwelling, but is rented or leased to secure an income, constitute allowable deductions in computing net income.

Premiums paid on life insurance by the insured do not constitute allowable deductions under the income-tax law.

Premiums paid on life insurance taken out by a partnership upon the lives of individual members of such partnership constitute allowable deductions in ascertaining the net earnings of the partnership. However, when such policies mature, or upon the death of the insured partner, the amount received as life insurance should be included in the gross income of the partnership.

Investment certificates.—Investment securities issued by a corporation for a term of years are corporate obligations within the meaning of the income-tax law.

Judges, salary of.—The salary of judges of the Supreme and inferior courts of the United States appointed subsequent to October 3, 1913, and of judges who have been retired is subject to the income tax and to the withholding provisions of the income-tax law.

Landlord.—A landlord in receipt of annual rental from a tenant in excess of $3,000 may, at the time the amount of rental payments aggregates $3,000, file with the tenant a claim for exemption under paragraph C of the income-tax law (Form 1007, revised). He may, also, after December 31 of the taxable year, file with the tenant, or with the collector of internal revenue, a claim for deductions under paragraph B on Form 1008, revised.

For duties of tenant with reference to withholding, see Tenant. (T. D. 1965.)

Legacy.—The general policy of the law and rule of interpretation require that legacies in all cases, unless clearly inconsistent with the

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intention of the testator, should be held to be vested rather than contingent. Where there is a vested interest the income from such interest, whether distributed or not, is subject to the tax; and when in the hands of fiduciaries they are required to account for and pay the tax thereon.

Life insurance policy, premiums paid on.—See Insurance premium.

Living quarters furnished.—See Compensation, value of quarters furnished part of.

Local benefits, taxes assessed against.—Taxes paid pursuant to assessments levied by special districts, such as irrigation, reclamation, drainage districts, etc., for sidewalks in cities, street extension, grading, paving, etc., are held to be "taxes assessed against local benefits." Such taxes are not allowable deductions in a return of annual net income.

Losses in trade.—"Only those losses are deductible which are sustained during the tax year 'in trade.' Loss to be deductible must be an absolute loss, not a speculative or fluctuating valuation of continuing investment, but must be an actual loss, actually sustained and ascertained, during the tax year for which the deduction is sought to be made; it must be incurred in trade and be determined and ascertained upon an actual, a completed, a closed transaction."

The term "in trade," as used in the law and in T. D. 2005, is held to mean the trade or trades in which the person making the return is engaged; that is, in which he has invested money otherwise than for the purpose of being employed in isolated transactions and to which he devotes at least a part of his time and attention. A person may engage in more than one trade and may deduct losses incurred in all of them, provided that in each trade the above requirements are met. As to losses on stocks, grain, cotton, etc., if these are incurred by a person engaged in trade to which the buying or selling of stocks, etc., are incident as a part of the business, as by a member of a stock, grain, or cotton exchange, such losses may be deducted. A person can be engaged in more than one business, but it must be clearly shown in such cases that he is actually a dealer, or trader, or manufacturer, or whatever the occupation may be, and is actually engaged in one or more lines of recognized businesses before losses can be claimed with respect to either or more than one line of business, and his status as such dealer must be clearly established. (T. D. 2005.)

Mileage.—The difference between the amount received as mileage and the amount of actual necessary expenses incurred on a journey shall be returned as income. Payments on account of mileage are not subject to withholding. (T. D. 2079.)

Minor child, return of.—See Guardian, natural.

Mortgage, property purchased subject to.—An individual issues coupon bonds secured by a mortgage upon real estate. Subsequently

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a corporation purchases the real estate and assumes (as between the mortgagor and itself) the payment of bonds and coupons. Held, that the situation is not changed by the purchase by the corporation. The corporation purchased only the mortgagor's equity of redemption (and the mortgagor's possession); the property is the security, and the character of the bond obligation remains unchanged and as created, even though the corporation is to pay all interest and will ultimately pay off the mortgage. There will be no withholding by the corporation (it being placed in the stead of the mortgagor) until the interest payment to any one person in any year exceeds $3,000. (See Public utility.)

Municipality, obligation of.—See Public utility, and Mortgage, property purchased subject to.

Naval officers.—See Oaths.

Nonresident alien, agent of.—The responsible heads, agents, or representatives of nonresident aliens who are in charge of the property owned or business carried on within the United States by nonresident aliens shall make full and complete returns of the income therefrom on Form 1040, revised, and shall pay any and all tax, normal and additional, assessed upon the said income of such nonresident aliens. (T. D. 2013.)

Notary public.—See Oaths.

Oaths.—(1) A return of income rendered by an individual residing abroad may be acknowledged before any duly appointed officer of the country in which he resides authorized to administer oaths and use an official seal.

(2) If a return is executed in a State before a notary who is not required by the laws of the State to use a seal, and none is used, the notary should file with the Commissioner of Internal Revenue the certificate of an officer possessing a seal, showing that he is duly commissioned and authorized to administer oaths; otherwise the certificate will not be recognized.

(3) Returns acknowledged before commanding officers of naval vessels while at sea or in foreign ports will be accepted.

(4) Returns executed before a summary court officer, United States Army, will not be accepted.

Ownership certificates.—Ownership certificates should be filed with coupons of exempt organizations when presented for collection. (See Exempt organizations.)

Partnership—Identity of income.—The character of partnership profits divisible between persons has no reference to any character which, as income accruing to the partnership, it may have borne prior to receipt by the partnership. It is therefore held that income received from a partnership can not be traced to its source behind the partnership for the purpose of claiming individual exemption.

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Income, when accrued.—It is held that the income from a partnership accrues to the individual partner at the time his distributive interest is determined and reducible to possession. In the returns of income made by individuals for the calendar year, therefore, there should be included such income accruing from the business of partnerships for their business years as may have been definitely ascertained by means of a book balance, whether distributed or not. In other words, members of partnerships are required to make returns of income like other individuals for the calendar year, and should include in their returns the net proceeds of their interest in partnership profits ascertained at the end of the business year falling within the calendar year for which the individual return is being rendered.

Pay.—Congress has clearly specified the conditions under which officers and enlisted men are entitled to foreign service pay, aids' pay, and pay for certificate of merit, and such items of income are considered as fixed and determinable and subject to the withholding provisions of the income-tax law.

Penalty for failure to render a return.—See Failure to render a return, penalty for.

Pension, foreign.—License not required for collection of foreign pensions paid to resident aliens or citizens of the United States.

Pensions.—Pensions paid by the United States Government are subject to the income tax.

Per diem allowances in lieu of subsistence while traveling under orders.—The difference between the amount received as a per diem allowance and the amount of actual necessary expenses incurred on a journey shall be returned as income and is not subject to withholding. (T. D. 2079.)

Power of attorney, fiduciary relation can not be created by.—A person can not, by a power of attorney, delegate to another a duty which he himself could not perform, and inasmuch as an individual can not relieve a withholding agent from the withholding requirements of the income-tax law by filing Form 1015, a person holding a power of attorney from another is without authority to file this certificate as a fiduciary. However, for income-tax purposes he is authorized to file any certificate which his principal, as such, would be entitled to file.

Premium on bond.—See Bond, premium on.

Principal place of business of corporations.—See Corporations, principal place of business of.

Profit from sale of real estate.—Profit is the difference between the selling price and the cost where the selling price is more than the cost.

"Cost of property purchased prior to the incidence of the special excise tax (Jan. 1, 1909), or the incidence of the income tax (Mar. 1, 1913), will be the actual price paid for the property, including the

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expense incident to the procurement of the property in the first instance and its sale thereafter, together with carrying charges of interest actually paid, insurance, and taxes actually paid prior to the incidence (special assessments, if any, 'actually paid' as 'local benefits' in connection with real estate); provided that where, up to the incidence of the tax, the expense of carrying property has exceeded the income from it, the difference between the expense of carrying and the income from the property shall be added to the purchase price, and the sum thus ascertained shall be the cost of the property; and provided further, that in the case of property purchased prior to the incidence of the tax and sale thereof subsequent to the incidence of the tax, there shall be excluded from consideration in ascertaining cost of any items of income, expense, interest, and taxes previously taken into account in preparing a return of annual net income.

"The cost of property acquired subsequent to the incidence of the tax will be the actual price paid for it, together with the expense incident to the procurement of the property in the first instance, and its sale thereafter, and the cost of improvement or betterment, if any."

The entire profits realized by individuals or corporations from the sale of real estate will be taxable except where the property in connection with which the profit is obtained was acquired prior to March 1, 1913, in the case of individuals, or prior to January 1, 1909, in the case of corporations; and then and in such event the profit will be prorated over the whole time the property was held, and that part of the whole profit apportioned to the taxable period will be reported in annual returns of income. In prorating, fractional parts of years will not be considered.

For income-tax purposes, where there is an actual sale and transfer, profit will be considered as realized even though payment is to be made in installments, as notes for deferred payments are secured by the title to the property and presumably bear interest and are held to be worth, in cash, their face value.

In case of default on installment payments there may be charged off as bad debts the amount of such unpaid installments less the salvage value of the real estate repossessed. (T. D. 2005.)

Profit sharing.—See Compensation.

Promissory note of corporations.—A simple promissory note not exceeding one year in time is not "similar to bonds, mortgages, or deeds of trust of corporations," and the interest on such a note is not subject to withholding except when the amount of interest thereon payable to an individual in any one year is in excess of $3,000, or when the interest thereon is payable to a nonresident alien, in which latter case the tax should be withheld regardless of the amount of interest payment.

Public utility.—Where a municipality purchases a public utility subject to a mortgage, the mortgage retains its original character,

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even though the municipality assumes the mortgage indebtedness and pays the interest thereon. Therefore, the indebtedness secured by such mortgage is not an obligation of the municipality within the meaning of paragraph B of the income-tax law. (See Mortgage, property purchased subject to:)

Quarters.—Commutation of quarters and the money equivalent of quarters furnished in kind shall be returned as income.

When quarters are furnished in kind of a less number of rooms than the number allowed by law, the money equivalent only of the number of rooms actually assigned shall be returned as income. When quarters are furnished in kind of a greater number of rooms than the number allowed by law, it is to be assumed that the excess number is assigned for the convenience of the Government, and the money equivalent only of the number of rooms allowed by law shall be returned as income. (T. D. 2079.)

Quarters, commutation of.—See Commutation of quarters.

Real estate agent.—Real estate agents are not required to deduct and withhold the normal tax from rents collected, even though the amount is in excess of $3,000. The agent stands in the place of the landlord and receives money from tenants in exactly the same capacity as the landlord would receive such moneys and should be treated as such. A real estate agent does not act as an agent of the debtor. Therefore the duty of withholding the tax can not be transferred from the debtor to such agent, because such transfer would simply be transferring the duty of withholding to the landlord himself.

Real estate, profit from sale of.—See Profit from sale of real estate.

Reimbursement for actual expenses.—Amounts paid by the Government in the nature of reimbursement for subsistence and other items of actual expense incurred while absent on business for the Government are not required to be returned as income. (T. D. 2079.)

Renewal premium.—Commissions on renewal premiums for insurance are income when received and income for the period in which received.

Rent.—Where a tenant rents two pieces of property from the same owner, the tenant should combine the payments, and when such payments so combined aggregate in excess of $3,000 the normal tax should be deducted and withheld, subject to authorized exemptions claimed.

Where a board of education for a school district rents property at an annual rental exceeding $3,000, such board of education is regarded as a tenant and should withhold the normal tax, subject, however, to the exemption claimed.

A lessee paying rent in excess of $3,000 a year under a lease from two or more individuals must make deduction from all payments to

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individuals in excess of $3,000 unless certificates of exemption are filed. He should ascertain in what proportion the rent is divided by the use of office Form 1000B, which may be adapted and executed by one of the parties in interest, the others executing Form 1007. The withholding should be made from the income of individuals and not from the aggregate amount paid. This situation is not different if the lessors are husband and wife if their individual interests are separate. The situation is not changed if, by instruction, the actual payments of rent are made to one lessor, the payments to be distributed by him. Where notes are given in payment of rent, the lessee's obligation to withhold is not altered. The lessee's obligation is the same as in the case of cash rental, withholding occurring at the time the notes are given, and not at maturity. When rental payments in excess of $3,000 a year are payable to a fiduciary, who fails or refuses to file Form 1063, agreeing to act as the source, the beneficiaries are not entitled to file exemption certificates directly, the lease having been taken from the fiduciary. If the fiduciary's certificate is not filed, the lessee should withhold 1 per cent on the entire amount. The lessee is not presumed to have knowledge of the beneficiaries unless they are parties to the lease.

Rent.—See Living quarters.

Return of fiduciary or guardian.—See Fiduciary, return of.

Returns, execution of.—See Oaths.

Salaries, withholding on, based on calendar year.—The salary of an individual is subject to withholding at the source only on the basis of the calendar year. Corporations which have a fiscal year other than the calendar year and pay employees salaries of $3,000 or over per annum will be required to withhold on the basis of the calendar year.

Salary of judges.—See Judges, salary of.

Salary paid in advance.—See Compensation.

Salary paid to widow for a limited time after death of employee.—See Gratuity.

Scrip.—Scrip certificates issued by a corporation to its stockholders in lieu of dividends, such scrip certificates bearing interest payable semiannually and redeemable at a specified time not longer than one year from date of issue, are not corporate obligations similar to bonds, mortgages, or deeds of trust, and the interest payable thereon will not be subject to withholding except when the amount thereof payable to an individual in a calendar year exceeds $3,000. Payment in scrip is held to be equivalent to payment in cash, and when the amount of such scrip payment to any one individual in a calendar year is in excess of $3,000 the tax must be withheld and accounted for in excess of exemption claimed.

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Special assessment districts.—Special assessment districts created under the laws of the several States for public purposes, such as the improvement of streets and public highways, the provision for sewerage, gas, and light, and the reclamation, drainage, or irrigation of bodies of land, and levee and school districts, are held to be political subdivisions of a State, and income derived from interest upon the obligations of such districts shall not be included in computing net income. (T. D. 1946.)

Taxes paid pursuant to assessments levied by such special assessment districts are held to be "taxes against local benefits," and are, therefore, not allowable deductions in computing net income.

Stock dividends.—Stock dividends when required to be included in a return of income should be accounted for at the valuation placed upon the stock by the corporation when said stock dividends were issued.

Summary court officers.—See Oaths.

Taxes.—Taxes paid by citizens or resident aliens of the United States to a foreign country are not allowable deductions in computing net income. The provision of law for the deduction of taxes applies only to taxes paid to the United States, or to some State or political subdivision thereof in the United States.

Taxes, special.—See Special assessment districts.

Tax-free covenant clause.—See Bonds containing tax-free covenant clause.

Tenant.—See Rent.

Theatrical profession.—See Actors and actresses.

Voluntary offering.—Easter offerings, and fees received by clergymen for funerals, masses, marriages, baptisms, etc., are considered income subject to tax under the provisions of the income-tax law of October 3, 1913. Christmas gifts, however, are not considered income within the meaning of the law and should not be included in a return.

Withholding from rents.—See Rent.

Worthless debt.—See Debt.

Part II.

RULINGS IN RELATION TO CORPORATION INCOME TAX.

Agricultural and horticultural associations.

Agricultural and horticultural associations specifically enumerated as exempt are held to be such associations as county fairs, or like organizations, not themselves engaged in agricultural or horticultural pursuits, but which, by means of awards, premiums, etc., are intended to encourage better production and no part of whose income inures to the benefit of any private stockholder or individual. (T. D. 1737).

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Corporations engaged in agricultural or horticultural pursuits for profit are liable under the law to make returns and to pay the income tax thereby shown to be due.

Agricultural organizations.—Corporations owning sugar or other plantations and disposing of the products thereof are held to be operating for profit and are not entitled to exemption as agricultural organizations.

Bank guaranty fund.—The reserve required to be set aside by banks in various States and kept and maintained in said banks as a guaranty of depositors in the banks of said States—which said guaranty fund is subject to draft by said banking commissions or boards, in amounts to be determined by said State banking commissions or boards, only for the purpose of supplying deficiencies in estates of failed or insolvent banks—is not an expenditure and can not be considered either as a tax or an expense. It is a reserve required to be kept and maintained for a certain and specifically designated purpose. The amounts actually expended from such fund in paying therefrom drafts of the State banking commissions or boards on said fund are in the nature of insurance cost, and as such may be deducted as a business expense. The reserve, per se, is not deductible in a return of income.

Capital of a corporation.—The amount received by a corporation for the original issue and sale of its capital stock is held to be the capital of the corporation. In cases where the stock, as originally issued, is sold at a price greater or less than the par value, neither the premium nor the discount will be taken into account in determining the net income of the corporation for the year in which the stock is sold. This is purely a capital transaction and the income is neither increased nor decreased by reason of the sale, per se, of the stock at a price greater or less than its par value.

Collateral the subject of sale in ordinary course of business of a corporation (expense of business).—As used in the act, the expression "collateral the subject of sale," etc., refers to physical or tangible property bound for the performance of certain covenants or payment of certain obligations, and which physical or tangible property is the "subject of sale in the ordinary business of a corporation" owning the same. Where such corporation is, as a matter of its ordinary business, engaged in buying and selling, or dealing in such property, the interest actually paid within the year on indebtedness wholly secured by such collateral may be allowably deducted from gross income as an expense of doing business, without regard to the limit of deductible interest as otherwise provided by the statute. The corporation, etc., must be organized and operated for the purpose of buying, selling, and dealing in the particular kind of property which becomes the collateral in question, and the particular property pledged for the debt upon which the interest is paid must be the "subject of sale in

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the ordinary business of the corporation." Real estate mortgaged, and the property of corporations organized for and engaged in the business of buying, selling, and dealing in real estate, warehouse receipts representing property the subject of sale in the ordinary business of the corporation owning the same, and which warehouse receipts are pledged as collateral for such corporation's own debt, are examples where the interest paid will be deductible as a "business expense" and not be subject to the statutory limitation as to interest deduction. (See T. D. 1993.)

Corporation—Exempt.—Cooperative dairies are not. (T. D. 1996.)

Corporations in existence but part of year.—All corporations having an existence as such during all or any portion of a year, unless coming within the classes specifically enumerated as exempt, are required to make returns. Dissolved corporations whose fiscal year coincides with the calendar year will make returns covering the period from January 1 to the date of dissolution, and corporations having a fiscal year other than the calendar year will make returns covering the period from the beginning of the fiscal year to the date of dissolution; and new corporations will make return for the period from the date of their organization to December 31. The net income in all such cases will be ascertained in the manner set out in paragraph G of the act.

Donations.—Donations by corporations which legitimately represent a consideration for a benefit flowing directly or indirectly to the corporation as an incident of its business are allowable deductions from gross income in ascertaining net income subject to the income tax, as donations to a hospital upon consideration that employees of the corporation are to have a ward for their use in case of accident or illness. The absence of consideration moving in some form to the corporation will make a contribution a mere gratuity. Gratuities are not allowable deductions in a return of income by corporations.

Donations made for purposes connected with the operation of the property, when limited to charitable institutions, hospitals, or educational institutions conducted for the benefit of the employees of a corporation or their dependents, shall be proper as a deduction under the head of expense in the return of the corporation.

Earnings or dividends not deductible.—Every corporation, no matter how closely related it may be to any other corporation, is required to make return of annual net income and to pay any income tax thereby shown to be due.

Parent, holding, or other corporations must include in their gross income, and can not deduct therefrom, any dividends or share of earnings which they may receive from a subsidiary, related, or any other corporation. The fact that the parent or holding company owns all the stock of the subsidiary company is immaterial and will

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not warrant such parent company in omitting or deducting dividends from gross income.

The Federal income-tax law fixes a specific rule by which the net income, for the purposes of the tax, is to be computed. That rule makes no provision for the exclusion or deduction from the taxable income of dividends received.

Expense (spending or treating money).—So-called spending or treating money actually advanced by corporations to their traveling salesmen as a part of selling expense of the product of such corporations is an allowable deduction in a return of income by such corporation. There must be some showing that all the allowance claimed as a deduction was actually expended for the purpose for which the allowance was made, namely, the selling of the product of the corporation in question.

Fiscal year (corporation)—The financial year of a corporation, etc., at the end of which the accounts are balanced.—For income-tax purposes, in the absence of designation otherwise, all returns are required to be made on the basis of the calendar year. The privilege of making a return of income on the basis of a fiscal year other than the calendar year is limited to corporations or institutions which make returns and pay tax as corporations. The statute provides that returns must be made on the basis of a calendar year unless the corporation, etc., involved shall designate a fiscal year other than the calendar year in the manner provided by the statute. When the calendar year shall have passed, a return of income for the entire period of such calendar year is then due and must be made out and filed with the proper collector of internal revenue on or before March 1 then next following. This is true even of corporations and institutions making return as corporations, except that such corporations, etc., are given the privilege of filing with the collector of internal revenue (with whom their return must be filed) not less than 30 days (more, but not less) prior to March 1 (the date when the return on the basis of a calendar year is to be filed), a notice, in writing, setting forth that such corporation, etc., has designated the last day of some month in the year (other than the last day of December) as the day of the closing of its fiscal year, and that from the date so designated as the close of its fiscal year its books have been or will be kept on the basis of such designated fiscal year. When this said notice is filed with the collector of internal revenue, a return must then be made on or before March 1 for such part of the calendar year elapsed as is not included in the said designated fiscal year, and return for the full designated fiscal year must be made and filed within 60 days next succeeding the last day of said designated fiscal year. This rule will apply whether the designation affects the future or past, pro-

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vided always that the return of income can not cover more than 12 consecutive months.

Example:

1914 A	X	B	C	Y	Z
Jan. 1	June 30	Dec. 31	Mar. 1	June 30	Aug. 29

AB is calendar year and C is March 1, the time when return on the basis of the calendar year must be filed. At any time not less than 30 days prior to C a corporation may file with the collector with whom its return of income must be filed a notice in writing setting forth that said corporation, etc., has designated the last day of some month in the year (other than December 31) as the day of the close of its fiscal year, as June 30, represented by X; thereafter, on March 1, a return will be filed for the period AX. XY represents the first designated fiscal year, and for this said fiscal year a return of income must be made (covering the period XY) subsequent to June 30 and on or before August 29; in other words, the 60-day period next following the close of the fiscal year. Thereafter returns of income will be made and filed annually subsequent to June 30, and on or before August 29. (See T. D. 2001 and T. D. 2029.)

Gifts to corporation—Income.—The value or amount of a gift to a corporation is held to be income to such corporation and should be returned as such for the year in which the gift is received. The provision of the act of October 3, 1913, which exempts gifts, bequests, etc., from the tax imposed by the act applies to individuals and not to corporations.

Horticultural societies.—Fruit-growers' associations whose purpose is to promote the mutual benefit of their members in marketing their products and which are not organized for profit and have no capital stock represented by shares, and whose income is derived wholly from membership fees, dues, and assessments to meet necessary expenses, are horticultural societies within the meaning of the law and are not subject to tax or required to make returns.

Interest.—Individuals are permitted a deduction of "all interest paid within the year * * * on indebtedness"; corporations are permitted a deduction of interest paid within the year on an amount measured by "the amount of capital stock, or capital employed, plus one-half the interest-bearing debt," both outstanding at the close of the year.

A foreign corporation in determining the maximum principal upon which interest for the purpose of a deduction may be computed will add to the amount of its paid-up capital stock, or if no capital stock, then the amount of capital employed in business, one-half the interest-bearing indebtedness, both outstanding at the close of the

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year. Such proportion of this sum as the gross income derived from business transacted in this country bears to the gross income received from business done or capital invested, both within and without the United States, will constitute the maximum principal upon which interest for the purpose of a deduction from the income in the United States may be computed. For instance, if the gross income in the United States is one-fourth of the entire gross income, then one-fourth of the sum of the paid-up capital stock plus one-half the interest-bearing indebtedness will be the maximum principal upon which interest deductible from the United States income may be computed.

Life insurance in favor of corporations.—In cases wherein corporations pay premiums on insurance policies insuring, in favor of the corporations, the lives of officers or others, such premiums may be allowably deducted from the gross income of the corporations paying the same.

In all such cases the proceeds of the policies when paid at maturity or upon death of the insured shall be returned by the corporation as income for the year in which such proceeds were received.

Paid-up capital stock outstanding at close of year.—"Paid-up capital stock outstanding at the close of the year," when used in connection with "interest-bearing indebtedness," to determine the maximum principal upon which interest for the purpose of an authorized deduction is to be computed, means the par value of shares issued as reported in Item 1 of the return form, and will not include the surplus carried by the corporation. (See T. D. 1960 for method of computation and T. D. 1993 for regulation as to deduction of interest paid on indebtedness wholly secured by collateral, the subject of sale, in the ordinary course of business.)

Pensions paid employees, etc.—Amounts paid for pensions to retired employees or to their families or others dependent upon them, or on account of injuries received by employees, are proper deductions as ordinary and necessary expenses. Gifts or gratuities to employees in the service of a corporation are not properly deductible in ascertaining net income of the corporation.

Philippine and Porto Rican corporations.—Such corporations organized under laws of the United States or any State thereof, resident in the United States but doing business in these possessions, are taxable in the United States. If they are organized under the laws of the United States or local laws of these possessions and resident in said possessions, they are required to pay their tax in the Philippines or in Porto Rico, as the case may be. The law provides that corporations shall make their returns "to the collector of internal revenue for the district in which they have their principal place of business." Held, "principal place of business" of a corporation is the place or

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office in which are kept the books of account and other data from which the return is to be prepared.

Public utility (*business expense*).—In case of a public utility constructed, operated, or maintained under contract with any city, Territory, or the District of Columbia, or a city where a portion of the net earnings of such public utility is payable under such contract to the State, Territory, etc., the amount so paid may be deducted by the public utility operating under such contract as an "expense of business." (See Art. 93, Reg. 33.)

Rent.—Payments measured by a fixed percentage on the stock of a railroad corporation whose lines are leased by another railroad corporation and which rent is payable by the lessee directly to the stockholders of the lessor corporation, have, under the income-tax law with respect to the corporation paying such sums, the status of a rental payment.

In such cases there are two corporations involved, the lessor and the lessee—one the rent payer and the other the rent receiver. To the lessee rental payments are an expense of operation; to the lessor the rentals are an income.

A contract which provides that the rentals shall be paid to a third party, not a party to the contract, does not change the character of the payment, nor relieve the lessor from liability to tax on the rental income which the lessee pays to it or to such third party. The income of the third party, the stockholder, is dividends on the stock which he holds in the lessor company. Dividends can not be paid unless the lessor has an income out of which to pay them. Hence the lessor company is required under the law to return as income the rentals which the lessee is required to pay. In paying direct to the stockholders the lessee is acting as the agent of the lessor, and the amounts received by stockholders are, in effect and in fact, dividends received out of the earnings of the lessor.

Return (*corporation*).—A corporation organized and transacting no business within the calendar year of its organization must, nevertheless, make and file a return on the basis of the calendar year unless such corporation shall designate a fiscal year other than the calendar year in the manner and form as provided for that purpose. The duty to make a return depends upon corporate or associational existence and not upon the receipt of income.

Return period.—The return for a completed period must be made independently of any other period. A corporation changing from the basis of a calendar year to a fiscal year, and because of said change having a part of the calendar year for which return is to be made, will be required to make a separate return for the fraction of the calendar year, and another separate return for the entire fiscal year; as June

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30 being designated as the end of the fiscal year, the part of the calendar year from January 1 to June 30 must be covered in a return to be made on or before March 1 then following, and on or before 60 days next following June 30 (next after the filing of return for the fractional part of a calendar year) a return must be made and filed for the entire fiscal year of the corporation. (T. D. 2029).

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

(T. D. 2091.)

Emergency revenue law—Bonds and certificates.

Liability to stamp tax on bonds and certificates in legal proceedings.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 14, 1914.

SIR: This office is in receipt of your letter of the 27th ultimo inclosing a letter from the counsel for the register of wills of Lehigh County in regard to liability to stamp tax on bonds and certificates in legal proceedings.

You request to be advised as to the line of demarcation between bonds which are required in legal proceedings and bonds which are taxable.

In reply you are informed that bonds given by court officers under direction or authority of the court to give proper effect to court proceedings and practically a part of the record of a suit or proceedings in court are not taxable.

Bonds given in cases of appeal are not taxable. Bonds given by executors, administrators, guardians, and receivers appointed by the court are bonds required in legal proceedings and are not taxable.

Letters of administration are not taxable.

Certificates issued by the register to administrators showing that they have been appointed administrators are not taxable.

Certificates by the register to accounts filed in his office, which certified copies are presented to the court, are not taxable.

See T. D. 2087.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———,

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(T. D. 2092.)

Emergency revenue law—Bills of lading.

It is the duty of the carrier to see that the stamp should be affixed and canceled to bills of lading when delivered to the shipper.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 11, 1914.

SIR: In reply to inquiries made at this office, you are informed that it has been held that it is the duty of railroad companies to see that the stamp required on bills of lading should be affixed and canceled when the bill of lading is issued and delivered to the shipper. This applies to express companies and other carriers, as well as to railroad companies.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2093.)

Emergency revenue law—Modifying T. D. 2080.

Forms and records for wine, documentary, and proprietary stamps furnished to any assistant treasurer of the United States or designated depositary thereof or any postmaster to be supplied by collectors instead of by this office.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 15, 1914.

To collectors of internal revenue:

Instructions contained in the second paragraph of T. D. 2080, dated December 4, 1914, requiring collectors to make requisition on this office to supply direct each assistant treasurer, depositary, or postmaster with the necessary forms and records, are hereby modified.

On requisition, collectors will be furnished with a supply of the forms and records mentioned in T. D. 2080, and should furnish each assistant treasurer, depositary, or postmaster, as soon as he qualifies, with the forms and records required.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
W. G. MCADOO,
Secretary of the Treasury.

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(T. D. 2094.)

Emergency revenue law—Soaps.

Where claims are made by manufacturers of soaps as to the cosmetic and beautifying effects of their soaps on the skin, hair, etc., the tax must be paid.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 16, 1914.

GENTLEMEN: Mr. ——— ——— has personally visited this office and submitted samples of soaps manufactured by you to determine which are subject to the tax under Schedule B of the act of Congress approved October 22, 1914.

It is held that your Woodbury's Facial Soap and Benzoin and Almond Lotion Soap are justly taxable under said act.

It may be stated for your information that such soaps as Packer's Tar, Resinol, Palmer's Skin Success, Cuticura, Palmolive, Pears' Glycerine, Nyal's Face Cream Soap, and other high-grade soaps in the same class for which claims are made as cosmetics, skin and hair improvers, and beautifiers, may be regarded as good examples of soaps taxable under the statute. Where claims are made by manufacturers of ordinary toilet and laundry soaps as to the cosmetic and beautifying effects of their soaps on the skin, hair, etc., the tax must be paid or the labels and advertising be so modified as to justify placing them in the category with ordinary toilet or laundry soaps.

Such medicated soaps as ichthyol, carbolic, iodoform, sulphur, etc., are exempt, provided the medication is actual and bona fide and no claims are made for same as cosmetics and beautifiers of the skin or hair or both.

Ordinary laundry soaps, simple soap shampoos, liquid and solid, and tincture of green soap are exempt, provided, as above stated, no claims are made for same as cosmetics or beautifiers of the skin and hair.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Messrs. ——— ———.

(T. D. 2095.)

Emergency revenue law—Tooth and mouth washes.

Instructions in regard to tax payment and stamping tooth and mouth washes under Schedule B of the act approved October 22, 1914, and regulations made in pursuance thereof.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 15, 1914.

To collectors of internal revenue:

Tooth washes are specifically taxed by the act in question, and mouth washes are held by the regulations to be included as taxable.

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This includes such antiseptic and antacid preparations as are commonly sold by the retailer under labels as tooth and mouth washes, dentifrices, prophylaxis, etc. The following are regarded as good examples: Listerine, Vernas, Prophytol, Glycothymoline, Wampole's Formolid, Wampole's Formolid Magnesia, Borolyptal, Pyrodenta, Thycalol, Odol, A. D. S. Antiseptic, Borine, Zongiva, Camphenal, Pasturine, Euthymol, Phenol Sodique, etc.

It is recognized that some of these preparations have double uses and are commonly used by physicians, dentists, and others for other purposes than washing the teeth and mouth. In such cases only those portions put up under appropriate labels and sold as tooth and mouth washes are held to be taxable. Those portions which are sold under appropriate labels for strictly medicinal uses, other than tooth or mouth washes, are not held to be taxable under said act.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2096.)

Emergency revenue law—Hair oils, pomades, etc.

Instructions relative to tax payment and stamping hair oils, pomades, hair dressings, hair restoratives, hair dyes, etc., under Schedule B of the act of Congress approved October 22, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 21, 1914.

To collectors of internal revenue:

Under Schedule B of the act of Congress approved October 22, 1914, hair oils, pomades, hair dressings, hair restoratives, hair dyes, or any similar substances are taxable. This is held to include tonics, stains, bleaches, improvers, beautifiers, depilatories, brilliantines for hair and beard under whatever name sold or known, whether liquids or solids and regardless of shape. Under this head are included soaps which are advertised and sold as hair restorers, improvers, or beautifiers.

The following list includes good examples of such taxable manufactures:

Danderine—a grower.
Seven Sutherland Sisters Corporation—a hair beautifier.
Herpicide—a dressing.
Kutico—a tonic and dressing.
Hair Vigor—Ayer's maké.
Hall's Hair Renewer.
Corollas Hair Tonic—a grower.
Hirsutus—a grower (Baker's).
Haye's Hair Health—dressing and invigorant.
Wyeth's Sage and Sulphur—a color or dye.
Lyons Kathairon—a renewer and grower.
Parisian Sage—a dressing.

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Walnutta—hair stain.
C. Damchinsky's Hair Dye.
Mrs. Potter's Walnut Hair Stain.
Tricopherous, Barry's—a restorer.
Eau de Quinine—a dressing and tonic.
Vaseline Hair Tonic—an oil or dressing.
Palmolive Shampoo—arrests falling hair.
Westphal's Auxiliator—a dressing.
Coke Dandruff Cure and Hair Tonic and Dressing.
Colgate's Quinol—a tonic and grower.
Bandoline—a hair dressing.
Arabian Egg Shampoo—a beautifier and grower.
Canthrox—beautifier.
Burnett's Cocoaine—a dressing.
Mansfield's Capillaris—a dressing.
Parker's Hair Balsam—a dressing.
Quinzoin—hair tonic and grower.
Sanitol—a grower and beautifier.
Colgate's Brilliantine—adds softness and gloss to hair and beard.

POMADES.

Ford's Hair Pomade.
Nelson's Hair Dressing.
Lanoline.
Ruby Dressine.
Pomade Litholine.

It may be that some such preparations have been held exempt by this office on incomplete information supplied, and if such be a fact, the attention of this office should be called thereto.

Simple soap shampoos, for which no claims are made as beautifiers, restorers, improvers, dressings, etc., are held to be exempt. Changing of labels and literature will not be permitted to exempt such justly taxable manufactures.

Ordinary shaving soaps, powders, pastes, and creams are exempt unless cosmetic virtues are claimed for them.

Collectors, revenue agents, and others will give this matter prompt attention.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2097.)

Emergency revenue law—Policy loan agreements.

Policy loan agreements giving merely a right of set-off not subject to tax as promissory notes—Premium extension notes not promissory notes.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 19, 1914.

To collectors of internal revenue and others concerned:

A number of inquiries have lately been presented to this office concerning the taxability of so-called "policy loan agreements" under the act of October 22, 1914, as promissory notes.

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It appears that it is the practice, in some cases required by law, for life insurance companies to make loans to persons insured therein on the security of their policies, and that while the agreements evidencing such loans are usually in the form of conventional promissory notes they contain other provisions entirely inconsistent with the general character and functions of promissory notes and negotiable paper generally. Such agreements commonly provide that the remedy of the company, in case the loan or interest thereon be not paid when due, is to be that the amount thereof shall be deducted from the dividends due the insured on his policy, or, in some cases, that the policy shall be canceled and a paid-up policy then issued in lieu of the canceled policy in an amount to be expressed in proportion to the sum due the company on the unpaid loan and interest.

Such agreements, in the opinion of this office, are not promissory notes within the usual conception of the term or within the intent and purpose of the act of October 22, 1914, they giving to the lenders not a right to collect a sum certain and at all events but merely a right to set-off against an asset of, or a debt owing to, the insured (unpaid dividends or paid-up value of the policy), a debt owed by the assured to the company. Such agreements, this office holds, therefore, are not subject to tax as promissory notes under the act in question.

Inquiry has also been made to this office concerning so-called premium extension notes extending the time within which the assured may pay his premium. Such notes also usually contain a promise to pay a sum of money upon a certain date fixed therein. Where, however, such notes provide that the remedy of the lending company in case of nonpayment of the premium note when due is in the cancellation of the policy or by such set-off as is indicated above in the case of policy loan notes, it is the opinion of this office that such premium extension notes are also exempt from taxation under the act in question as promissory notes.

Any rulings inconsistent herewith are revoked.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2098.)

Emergency revenue law—Cancellation of stamps.

Perforation not necessary by canceling machine, but hand punch may be used.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 18, 1914.

SIR: This office is in receipt of your letter of the 15th instant, relative to the cancellation of internal-revenue stamps by incision when the value of the stamp is $0.10 or more.

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In reply, you are advised that the regulations provide that "this will not be required where stamps are canceled by perforation."

This does not mean that a perforating machine outlining initial and date by perforation must be used, but it will be a sufficient compliance with the regulations if, after initials and date have been written on the stamp, several perforations, sufficient to prevent washing and resale of stamp, are made with an ordinary hand punch before affixing the stamp to the document.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T D 2099.)

Emergency revenue law—Instructions relative to Packer's Tar Soap.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 17, 1914.

To collectors of internal revenue:

You are informed that a ruling of this office, dated November 19, 1914, holding Packer's Tar Soap to be exempt from tax under Schedule B of the act of Congress approved October 22, 1914, has been revoked in a ruling issued December 12, 1914, as the result of further investigation of the general question of the taxability of medicinal or cosmetic soaps.

In view of the peculiar facts in this case, however, such soap as was removed from factory before December 16, 1914, whether in manufacturer's warehouse or in the hands of jobbers or retailers, need not be tax paid or stamped.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2100.)

Emergency revenue law—Export bonds.

Bonds given for the direct exportation of goods not subject to stamp tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 22, 1914.

To collectors of internal revenue:

After careful consideration, it is held that export bonds or transportation for export bonds, covering articles for export from the

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United States, are not subject to stamp tax under the provisions of the revenue act of October 22, 1914.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2101.)

Emergency revenue law—Coupons or interest notes.

Coupons or interest notes attached to and forming part of the bond or principal note are not subject to tax as promissory notes, even though they are in the form of promissory notes.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 24, 1914.

SIR: Replying to your letter of the 19th instant, submitting brief relative to the taxability of interest coupons attached to bonds, which coupons are in the form of promissory notes, you are advised that the Supreme Court decisions quoted in your letter, namely, Kenosha *v.* Lamson (9 Wall., U. S., 477) and Lexington *v.* Butler (14 Wall., 282–297), have been examined and appear to sustain your contention that coupons attached to bonds are a part of the bond and are not separately subject to tax, even though in the form of promissory notes.

It is therefore held that coupons or interest notes attached to and forming part of the bond or principal note are not subject to tax as promissory notes, even though they are in the form of promissory notes.

Any rulings heretofore made inconsistent with this are hereby revoked.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2102.)

Opium, coca leaves, etc.

Act of December 17, 1914, to provide for the registration of and imposing special tax upon persons dealing in opium, coca leaves, etc.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 26, 1914.

To collectors and other officers of internal revenue:

The appended act of Congress, approved December 17, 1914, is published for the information of all concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

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[PUBLIC No. 223—63D CONGRESS—H. R. 6282.]

AN ACT To provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the first day of March, nineteen hundred and fifteen, every person who produces, imports, manufactures, compounds, deals in, dispenses, sells, distributes, or gives away opium or coca leaves or any compound, manufacture, salt, derivative, or preparation thereof, shall register with the collector of internal revenue of the district his name or style, place of business, and place or places where such business is to be carried on: *Provided*, That the office, or if none, then the residence of any person shall be considered for the purposes of this act to be his place of business. At the time of such registry and on or before the first day of July, annually thereafter, every person who produces, imports, manufactures, compounds, deals in, dispenses, sells, distributes, or gives away any of the aforesaid drugs shall pay to the said collector a special tax at the rate of $1 per annum: *Provided*, That no employee of any person who produces, imports, manufactures, compounds, deals in, dispenses, sells, distributes, or gives away any of the aforesaid drugs, acting within the scope of his employment, shall be required to register or to pay the special tax provided by this section: *Provided further*, That the person who employs him shall have registered and paid the special tax as required by this section: *Provided further*, That officers of the United States Government who are lawfully engaged in making purchases of the above-named drugs for the various departments of the Army and Navy, the Public Health Service, and for Government hospitals and prisons, and officers of any State government, or of any county or municipality therein, who are lawfully engaged in making purchases of the above-named drugs for State, county, or municipal hospitals or prisons, and officials of any Territory or insular possession or the District of Columbia or of the United States who are lawfully engaged in making purchases of the above-named drugs for hospitals or prisons therein shall not be required to register and pay the special tax as herein required.

It shall be unlawful for any person required to register under the terms of this act to produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away any of the aforesaid drugs without having registered and paid the special tax provided for in this section.

That the word "person" as used in this act shall be construed to mean and include a partnership, association, company, or corporation, as well as a natural person; and all provisions of existing law relating to special taxes, so far as applicable, including the provisions of section thirty-two hundred and forty of the Revised Statutes of the United States are hereby extended to the special tax herein imposed.

That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all needful rules and regulations for carrying the provisions of this act into effect.

SEC. 2. That it shall be unlawful for any person to sell, barter, exchange, or give away any of the aforesaid drugs except in pursuance of a written order of the person to whom such article is sold, bartered, exchanged, or given, on a form to be issued in blank for that purpose by the Commissioner of Internal Revenue. Every person who shall accept any such order, and in pursuance thereof shall sell, barter, exchange, or give away any of the aforesaid drugs, shall preserve such order for a period of two years in such a way as to be readily accessible to inspection by any officer, agent, or employee of the Treasury Department duly authorized for that purpose, and the State, Territorial, District, municipal, and insular officials named in section five of this act. Every person who shall give an order as herein provided to any other person for any of the aforesaid drugs shall, at or before the time of giving such order, make or cause to be made a duplicate thereof on a form to be issued in blank for that pur-

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pose by the Commissioner of Internal Revenue, and in case of the acceptance of such order shall preserve such duplicate for said period of two years in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials hereinbefore mentioned. Nothing contained in this section shall apply—

(a) To the dispensing or distribution of any of the aforesaid drugs to a patient by a physician, dentist, or veterinary surgeon registered under this act in the course of his professional practice only: *Provided*, That such physician, dentist, or veterinary surgeon shall keep a record of all such drugs dispensed or distributed, showing the amount dispensed or distributed, the date, and the name and address of the patient to whom such drugs are dispensed or distributed, except such as may be dispensed or distributed to a patient upon whom such physician, dentist, or veterinary surgeon shall personally attend; and such record shall be kept for a period of two years from the date of dispensing or distributing such drugs, subject to inspection, as provided in this act.

(b) To the sale, dispensing, or distribution of any of the aforesaid drugs by a dealer to a consumer under and in pursuance of a written prescription issued by a physician, dentist, or veterinary surgeon registered under this act: *Provided, however*, That such prescription shall be dated as of the day on which signed and shall be signed by the physician, dentist, or veterinary surgeon who shall have issued the same: *And provided further*, That such dealer shall preserve such prescription for a period of two years from the day on which such prescription is filled in such a way as to be readily accessible to inspection by the officers, agents, employees and officials hereinbefore mentioned.

(c) To the sale, exportation, shipment, or delivery of any of the aforesaid drugs by any person within the United States or any Territory or the District of Columbia or any of the insular possessions of the United States to any person in any foreign country, regulating their entry in accordance with such regulations for importation thereof into such foreign country as are prescribed by said country, such regulations to be promulgated from time to time by the Secretary of State of the United States.

(d) To the sale, barter, exchange, or giving away of any of the aforesaid drugs to any officer of the United States Government or of any State, Territorial, District, county, to municipal or insular government lawfully engaged in making purchases thereof for the various departments of the Army and Navy, the Public Health Service, and for Government, State, Territorial, District, county, or municipal or insular hospitals or prisons.

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall cause suitable forms to be prepared for the purposes above mentioned, and shall cause the same to be distributed to collectors of internal revenue for sale by them to those persons who shall have registered and paid the special tax as required by section one of this act in their districts, respectively; and no collector shall sell any of such forms to any persons other than a person who has registered and paid the special tax as required by section one of this act in his district. The price at which such forms shall be sold by said collectors shall be fixed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, but shall not exceed the sum of $1 per hundred. Every collector shall keep an account of the number of such forms sold by him, the names of the purchasers, and the number of such forms sold to each of such purchasers. Whenever any collector shall sell any of such forms, he shall cause the name of the purchaser thereof to be plainly written or stamped thereon before delivering the same; and no person other than such purchaser shall use any of said forms bearing the name of such purchaser for the purpose of procuring any of the aforesaid drugs, or furnish any of the forms bearing the name of such purchaser to any person with intent thereby to procure the shipment or delivery of any of the aforesaid drugs. It shall be unlawful for any person to obtain by means of said order forms any of the aforesaid drugs for any purpose other than the use, sale, or distribution thereof by him in

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the conduct of a lawful business in said drugs or in the legitimate practice of his profession.

The provisions of this act shall apply to the United States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the insular possessions of the United States, and the Canal Zone. In Porto Rico and the Philippine Islands the administration of this act, the collection of the said special tax, and the issuance of the order forms specified in section two shall be performed by the appropriate internal-revenue officers of those governments, and all revenues collected hereunder in Porto Rico and the Philippine Islands shall accrue intact to the general governments thereof, respectively. The courts of first instance in the Philippine Islands shall possess and exercise jurisdiction in all cases arising under this act in said islands. The President is authorized and directed to issue such Executive orders as will carry into effect in the Canal Zone the intent and purpose of this act by providing for the registration and the imposition of a special tax upon all persons in the Canal Zone who produce, import, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations.

SEC. 3. That any person who shall be registered in any internal-revenue district under the provisions of section one of this act shall, whenever required so to do by the collector of the district, render to the said collector a true and correct statement or return, verified by affidavit, setting forth the quantity of the aforesaid drugs received by him in said internal-revenue district during such period immediately preceding the demand of the collector, not exceeding three months, as the said collector may fix and determine; the names of the persons from whom the said drugs were received; the quantity in each instance received from each of such persons, and the date when received.

SEC. 4. That it shall be unlawful for any person who shall not have registered and paid the special tax as required by section one of this act to send, ship, carry, or deliver any of the aforesaid drugs from any State or Territory or the District of Columbia or any insular possession of the United States, to any person in any other State or Territory or the District of Columbia or any insular possession of the United States: *Provided*, That nothing contained in this section shall apply to common carriers engaged in transporting the aforesaid drugs, or to any employee acting within the scope of his employment, or any person who shall have registered and paid the special tax required by section one of this act, or to any person who shall deliver any such drug which has been prescribed or dispensed by a physician, dentist, or veterinarian required to register under the terms of this act, who has been employed to prescribe for the particular patient receiving such drug, or to any United States, State, county, municipal, District, Territorial, or insular officer or official acting within the scope of his official duties.

SEC. 5. That the duplicate-order forms and the prescriptions required to be preserved under the provisions of section two of this act, and the statements or returns filed in the office of the collector of the district, under the provisions of section three of this act, shall be open to inspection by officers, agents, and employees of the Treasury Department duly authorized for that purpose; and such officials of any State or Territory, or of any organized municipality therein, or of the District of Columbia, or any insular possession of the United States, as shall be charged with the enforcement of any law or municipal ordinance regulating the sale, prescribing, dispensing, dealing in, or distribution of the aforesaid drugs. Each collector of internal revenue is hereby authorized to furnish, upon written request, certified copies of any of the said statements or returns filed in his office to any of such officials of any State or Territory or organized municipality therein, or the District of Columbia, or any insular possession of the United States, as shall be entitled to inspect the said statements or returns filed in the office of the said collector, upon the payment of a fee of $1 for each one hundred words or fraction thereof in the copy or copies so requested. Any person who shall disclose the information contained in the said

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statements or returns or in the said duplicate-order forms, except as herein expressly provided, and except for the purpose of enforcing the provisions of this act, or for the purpose of enforcing any law of any State or Territory or the District of Columbia, or any insular possession of the United States, or ordinance of any organized municipality therein, regulating the sale, prescribing, dispensing, dealing in, or distribution of the aforesaid drugs, shall, on conviction, be fined or imprisoned as provided by section nine of this act. And collectors of internal revenue are hereby authorized to furnish upon written request, to any person, a certified copy of the names of any or all persons who may be listed in their respective collection districts as special-tax payers under the provisions of this act, upon payment of a fee of $1 for each one hundred names or fraction thereof in the copy so requested.

SEC. 6. That the provisions of this act shall not be construed to apply to the sale, distribution, giving away, dispensing, or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if a solid or semisolid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use only, except liniments, ointments, and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them: *Provided*, That such remedies and preparations are sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this act: The provisions of this act shall not apply to decocainized coca leaves or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine.

SEC. 7. That all laws relating to the assessment, collection, remission, and refund of internal-revenue taxes, including section thirty-two hundred and twenty-nine of the Revised Statutes of the United States, so far as applicable to and not inconsistent with the provisions of this act, are hereby extended and made applicable to the special taxes imposed by this act.

SEC. 8. That is shall be unlawful for any person not registered under the provisions of this act, and who has not paid the special tax provided for by this act, to have in his possession or under his control any of the aforesaid drugs; and such possession or control shall be presumptive evidence of a violation of this section, and also of a violation of the provisions of section one of this act: *Provided*, That this section shall not apply to any employee of a registered person, or to a nurse under the supervision of a physician, dentist, or veterinary surgeon registered under this act, having such possession or control by virtue of his employment or occupation and not on his own account; or to the possession of any of the aforesaid drugs which has or have been prescribed in good faith by a physician, dentist, or veterinary surgeon registered under this act; or to any United States, State, county, municipal, District, Territorial, or insular officer or official who has possession of any said drugs, by reason of his official duties, or to a warehouseman holding possession for a person registered and who has paid the taxes under this act; or to common carriers engaged in transporting such drugs: *Provided further*, That it shall not be necessary to negative any of the aforesaid exemptions in any complaint, information, indictment, or other writ or proceeding laid or brought under this act; and the burden of proof of any such exemptions shall be upon the defendant.

SEC. 9. That any person who violates or fails to comply with any of the requirements of this act shall, on conviction, be fined not more than $2,000 or be imprisoned not more than five years, or both, in the discretion of the court.

SEC. 10. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to appoint such agents, deputy collectors, inspectors, chemists, assistant chemists, clerks, and messengers in the field and in

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the Bureau of Internal Revenue in the District of Columbia as may be necessary to enforce the provisions of this act.

SEC. 11. That the sum of $150,000, or so much thereof as may be necessary, be, and hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of carrying into effect the provisions of this act.

SEC. 12. That nothing contained in this act shall be construed to impair, alter, amend, or repeal any of the provisions of the act of Congress approved June thirtieth, nineteen hundred and six, entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded, or poisonous, or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," and any amendment thereof, or of the act approved February ninth, nineteen hundred and nine, entitled "An act to prohibit the importation and use of opium for other than medicinal purposes," and any amendment thereof.

Approved, December 17, 1914.

(T. D. 2103.)

Distilled spirits—Suit on a warehousing bond.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 23, 1914.

The appended decision of the United States Circuit Court of Appeals, Fourth Circuit is published for the information of all concerned.

W. H. OSBORN,
Commissioner of Internal Revenue.

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1. TAX ON SPIRITS.

The tax on spirits becomes due as soon as the same is produced, and the Government has a first lien thereon until tax is paid.

2. SPIRITS STOLEN AFTER SEIZURE.

Where spirits in warehouse are stolen after seizure it does not affect the status of the obligors on the warehousing bond.

3. WAREHOUSING BOND.

The obligation on the warehousing bond is unconditional and continuing.

4. REMEDIES CUMULATIVE.

The right of the Government to proceed to collect the tax by forfeiture does not affect its right to resort to other remedies for its collection.

UNITED STATES CIRCUIT COURT OF APPEALS, FOURTH CIRCUIT. No. 1308.

United States Fidelity & Guaranty Co. of Baltimore, Md., a corporation, plaintiff in error, v. *United States and Columbus F. Cheshire, defendants in error.*

ERROR to the District Court of the United States for the Eastern District of Virginia, at Norfolk.

[Decided November 28, 1914.]

Before PRITCHARD, KNAPP, and WOODS, Circuit Judges.

PRITCHARD, *Circuit Judge:* This is an action instituted in the United States District Court for the Eastern District of Virginia, at Norfolk, in February, 1914, against Columbus F. Cheshire and the United States Fidelity & Guaranty Co. upon a warehousing bond in the penalty of $5,000, in which the former is principal and the latter is surety.

The plaintiff in error will be referred to as defendant and the defendant in error as plaintiff, such being the relative positions the parties occupied in the court below.

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This case was heard upon a stipulation as to the facts. The court instructed the jury to return a verdict in favor of the Government for $3,221.79, with interest from the 30th day of May, 1913, at the rate of 6 per cent per annum until paid, said amount being the full claim of the Government as presented in such action. Judgment was accordingly entered by the court upon this verdict.

The circumstances are as follows:

Columbus F. Cheshire was a distiller owning distillery warehouse No. 3 near Portsmouth, Va. The warehousing bond given by him upon which this suit was brought was conditioned—

To pay the full amount of tax, at the rate imposed by an act of Congress of August 28, 1894, on all spirits so deposited in said distillery warehouse before removal therefrom and within eight years from the date of entry of such spirits for deposit in said warehouse.

Because of alleged offenses against the Government proceedings were begun by it, before the institution of this suit against Cheshire, in which was obtained a judgment forfeiting to the Government the distillery, the land whereon it was located, and 64 barrels of spirits upon which taxes amounting to $3,221.79 were then unpaid.

The agreed statement of facts contains the following:

Fourth. On May 30, 1913, subsequent to the seizure and forfeiture of the distillery in these proceedings described, and while said distillery and whisky was in the possession of the United States Government to be sold by the marshal under the order of this court in said libel proceedings, the whisky in the warehouse was stolen therefrom before said sale and has never been recovered or sold.

Upon the trial the court refused certain instructions asked for by the defendant and, at the request of the Government, charged the jury as follows:

The jury are charged that the United States tax on spirits distilled attaches to the same as soon as it comes into existence, and continues as a first lien thereon until the tax is paid or the whiskey is sold by the United States, and defendants are not relieved from the payment of the tax thereon because the same was stolen before the sale thereof, while in the possession of the Government, notwithstanding it may have been declared forfeited to the Government in the proceedings instituted for such forfeiture. The jury are accordingly directed to find a verdict for the Government for the sum of $3,221.79 with interest thereon from the 30th day of May, 1913, at the rate of 6 per cent per annum until paid.

In accordance with such charge, the jury rendered the following verdict:

We, the jury, upon issue joined, find for the Government for the sum of ($3,221.79) thirty-two hundred and twenty-one 79/100 dollars, with interest thereon from the 30th day of May, 1913, at the rate of 6 per centum per annum until paid. John W. Starke, foreman. June 12th, 1914.

The surety excepted to the ruling of the court below, and the case comes here on writ of error.

The only question involved in this controversy is as to whether the court below erred in holding that under the facts of this case the surety was not relieved of its obligation to pay the taxes on the amount of spirits placed in the warehouse in pursuance of the execution of the bond in question. That portion of the obligation material to the issue is as follows:

The principal shall * * * well and truly pay or cause to be paid * * * the full amount of tax on all spirits so deposited at said distillery warehouse before the removal therefrom and within eight years from the date of entry of such spirits for deposit in said warehouse.

It should be borne in mind that in the enforcement of the revenue laws it is the prime object of the Government to safeguard its rights to collect all the tax on spirits produced. Therefore when spirits are entered for deposit in a warehouse, the Government, in addition to requiring a bond for the payment of the taxes thereon, also retains possession of the warehouse, and the key to the same is kept at all times in the custody of a storekeeper and gauger.

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It has been uniformly held that the tax on spirits becomes due as soon as the same is produced, and that the Government has a first lien on the same until the tax is paid. United States *v.* National Surety Co. (122 Fed., 109), Ulrici *v.* United States (111 U. S., 38), Harkins *v.* Williard (146 Fed., 707).

However, it is contended by counsel for defendant that inasmuch as the spirits in question were stolen after there had been a forfeiture of the same to the Government by a decree of the District Court, that the defendant as surety on the warehouse bond was thereby relieved from liability. When the defendant became surety on the warehouse bond it entered into a contract with the Government to the effect that the full amount of all taxes on spirits deposited at the distillery warehouse should be paid for before removal and within eight years from the day when such spirits were entered for deposit.

By taking advantage of the statute, the distiller was afforded an opportunity to postpone the payment of tax on spirits produced. In other words he secured an extension of eight years in which to make such payment. It is but natural that the Government in extending this grace to the distiller, should insist upon a provision in the warehouse bond that would absolutely remove all doubt as to the payment of the tax within the period mentioned. Common observation and experience teach us that during the period mentioned unforeseen contingencies are liable to arise which might render it impossible for the Government to realize the tax by the sale of the spirits. Therefore, it is obvious that it was the purpose of the Government, in requiring the distiller to execute a bond of this character, to provide against any contingency that might arise which would prevent the Government from collecting its tax. If this had been a distiller's bond and the spirits had been stolen before the entry of decree of forfeiture, there would be no controversy here as to the liability of the surety, that question having been definitely settled in the cases of United States *v.* Mullins (119 Fed., 335), United States *v.* Guest (143 Fed., 456), United States *v.* Sisk (176 Fed., 885).

The case at bar is clearly analogous, and the fact that the spirits in this instance had been forfeited by a decree of the District Court before they were stolen could in no wise affect the status of the obligors, it being clearly provided in the bond in question that the tax on the spirits produced should be paid before the same were removed from the warehouse. This unconditional and continuing obligation was required by the Government in view of the many contingencies which might arise wherein it would be impossible for the Government to realize the tax due by the sale of the spirits.

There is nothing in the bond to warrant the contention that the remedies of the Government are alternative. Such rights are cumulative. Therefore, the pursuit by one remedy could in no wise affect the right of the Government, as in this instance, to resort to another for the purpose of collecting its tax. In the case of United States *v.* Witten (143 U. S., 76), distilled spirits were stolen from a warehouse where the internal-revenue officer had failed to provide sufficient locks on the doors. The court held that such action on the part of the Government official could not be pleaded as a defense to an action to recover on the distiller's bond the taxes due on spirits before their removal from the warehouse. Among other things, the court in that case said:

> The only duty which the revenue officers owed in regard to the security of the warehouse and safekeeping of the spirits therein was to the Government and not to the defendants; and any negligence of those officers gave the defendants no rights against the Government and afforded them no excuse for not performing their obligation according to its term. This is too well settled by previous decisions of this court to require more extended discussions. Hart *v.* United States (95 U. S., 316) and cases cited; Minturn *v.* United States (106 U. S., 437).

In view of what we have said it follows that the judgment of the lower court should be affirmed.

Affirmed.

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(T. D. 2104.)

Emergency revenue law—Tooth and mouth wash.

Instructions in regard to tax payment and stamping of tooth and mouth washes under Schedule B of the act of Congress approved October 22 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 26, 1914.

To collectors of internal revenue:

T. D. 2095 requires tax payment and stamping of such portions of antiseptic and antacid preparations as are sold under appropriate labels as tooth and mouth washes and exempts those portions sold under appropriate labels for other purposes than tooth and mouth washes, thus recognizing the double use of same. Many such preparations are sold in different sized bottles or containers and manufacturers and others are hereby authorized to blot out or otherwise eradicate the words "tooth wash," "mouth wash," or "tooth and mouth wash," as the case may be, from the labels and other printed matter for those bottles or containers to be sold for other purposes, and thus exempt same from taxation.

It may be stated that some such preparations may have been exempted on incomplete information supplied, and if such be a fact the attention of this office should be called to the matter.

It will be understood that there are many others of these washes than the ones enumerated in T. D. 2095 and all are equally liable to taxation.

These instructions apply to tooth or mouth washes and are not authority for changing labels on dentrifices and other taxable manufactures to avoid taxation.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2105.)

Emergency revenue law—Brokers' notes or memoranda.

Further definition of brokers' notes or memoranda.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 24, 1914.

SIR: Referring to your personal visit to this office, you are advised that it is apparent, from correspondence received, that the subject of what constitutes a taxable broker's note or memorandum is not yet clearly understood, notwithstanding the definition given in T. D. 2088.

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In that decision the instrument taxed under the head "Contract: Broker's note or memorandum" was defined as "any instrument or writing given by the seller, when a broker or person acting as such, to the buyer of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind or description, evidencing or confirming the sale."

By this language it was intended to convey the meaning that the note or memorandum must establish a contractural relation between the broker or person acting as such and the purchaser; that is, it must evidence a broker's contract, executed or executory, issued to the purchaser.

No mere advice or order for the delivery of the goods not delivered to the purchaser nor statement of account can be construed as a contract of sale.

As stated in T. D. 2088, except in the cases where a broker's note or memorandum is otherwise provided for at a different rate of tax, and therefore not subject to tax at 10 cents, there is no requirement in the law that such a contract or note shall be issued, but if it is issued it is taxable at 10 cents.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Mr. ——— ———.

(T. D. 2106.)

Emergency revenue law—Marine insurance—Open policies.

Law and instructions relative to the tax imposed on marine-insurance policies by the act of October 22, 1914, effective December 1, 1914.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 29, 1914.

The following provisions, effective December 1, 1914, relating to marine and other kinds of insurance, are contained in Schedule A of the act "To increase the internal revenue, and for other purposes," approved October 22, 1914:

Insurance: Each policy of insurance or other instrument, by whatever name the same shall be called, by which insurance shall be made or renewed upon property of any description (including rents or profits), whether against peril by sea or on inland waters, or by fire or lightning, or other peril, made by any person, association, or corporation, upon the amount of premium charged, one-half of 1 cent on each dollar or fractional part thereof: *Provided*, That purely cooperative or mutual fire insurance companies or associations carried on by the members thereof solely for the protection of their own property and not for profit shall be exempted from the tax herein provided: *And provided further*, That policies of reinsurance shall be exempt from the tax herein imposed by this paragraph.

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Upon satisfactory representations made to this office that a literal compliance with the foregoing provisions of law in the matter of affixing the required stamps is impracticable in cases where insurance is effected or renewed under "*open policies*," upon which the premiums charged in respect of risks attaching thereunder are not and can not be entered, collectors of internal revenue are authorized and directed to permit the following procedure:

(1) Such insurance companies and underwriters as are engaged in the business of marine or transportation insurance in the United States and who have filed with the collector of the district in which the principal office of said insurers in the United States is located, or in a collection district designated by the company and where one of its marine agencies is situated, the bond hereafter prescribed, may (in lieu of affixing stamps to said open policies or other instruments used in connection therewith) affix, at the principal office of the company in the United States or at one or more of its marine agencies in the United States, authorized as hereafter prescribed by the company, the required stamps to the books in which the amounts of premiums charged under such open policies are entered; said stamps to be affixed against the monthly totals of premiums so charged and to be certified to by the proper officer or agent of the underwriters on the first day of the following month or within twenty (20) days thereafter. *Provided*, That nothing herein contained shall require a company to file more than one bond.

When a company elects to designate a collection district other than the district in which the principal office of the company in the United States is located as the place for the filing of the required bond, it shall designate such other collection district in writing to the Commissioner of Internal Revenue at Washington and send a copy of such written designation to the collector of the district in which the principal office of the company in the United States is located and another copy to the collector of the designated district. When a company desires to authorize one or more of its marine agencies in the United States to affix stamps in their books, as hereinbefore provided in the case of premiums charged under open policies, authority for so doing shall be given in writing by the company to such agent or agents and a copy of such authority shall be sent by the company to the Commissioner of Internal Revenue and another copy to the collector of the district or districts in which the agent or agents so authorized conduct the business of such agencies.

No company or any of its agents shall affix stamps to the premium books of the company or of any agency until the aforesaid bond shall have been filed, as herein provided, and no agent shall affix stamps to said books until he shall have been duly authorized so to do by the company or companies he represents, as hereinbefore provided.

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In the case of companies organized under the laws of a foreign country and authorized to transact business in the United States, the terms "company" and "principal office" of said company shall for the purposes of this regulation be taken to refer to the office of its principal marine agency in the United States.

(2) The bond to be given by the insurance company, or by an approved surety company, shall be in the following form and in the penal sum of ten thousand dollars ($10,000):

Know all men by these presents: That the ———, a corporation of ———, and having its principal office at ———, in the State of ———, is held and firmly bound unto the United States of America, in the full and just sum of ten thousand dollars ($10,000), lawful money of the United States, to which payment well and truly to be made the said company binds itself, its successors and assigns, firmly by these presents.

Sealed with its corporate seal, and dated this —— day of ———, 191–.

Whereas, the (above bounden[1]) ——— is engaged in the business of insuring against loss or damage (here state character of risks and class of property on which such risk is assumed), and whereas the premiums charged by the said company under its open policies of insurance are subject to a stamp tax under the provisions of an act of Congress approved October 22, 1914; and whereas the premiums so charged can not, in the usual and ordinary course of its business, be charged or entered by the said company on the said open policies of insurance;

Now, therefore, the condition of this obligation is such that if the said ——— company shall, as to all premiums charged under the said open policies of ——— insurance, on and after the 1st day of December, 1914, cause the same to be entered on the premium books of the said company or its duly authorized agents in the United States and shall pay the full amount of tax imposed by the act of Congress aforesaid on all premiums so charged on or after said date and prior to December 31, 1915, and shall affix to the said books, against the monthly totals of said premiums the required stamps denoting the payment of said tax; and shall, on the first day of each month, or within twenty (20) days thereafter, render or cause to be rendered to the collector of internal revenue for the ——— district of ——— a full and accurate statement of all premiums so charged, and the amount of tax paid thereon as aforesaid, then this obligation to be void, otherwise to remain in full force and virtue.

As conditioned in the foregoing bond, the company shall, not later than the 20th day of each month, render a statement of the amount of premiums so charged during the preceding month, as also the amount of tax thereon paid. The required statement should be made on Form 429 (revised), in duplicate, one copy of which will be retained by the collector and one copy forwarded to the Commissioner of Internal Revenue.

3. Upon certificates and other documents used in connection with open policies of marine or transportation insurance, there may be indorsed by rubber stamp or otherwise the following:

Payment of internal-revenue stamp tax guaranteed by the (insert name of insurance company) under T. D. 2106

No such indorsement shall be made upon any such certificate or other document unless there shall have been filed by the company

[1] Omit if bond is given by a surety company. In such case the corporate name and principal office of the company on whose behalf the bond is given should be stated in full.

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therein described the bond prescribed by this regulation: *Provided*, That this prohibition shall not apply to such indorsements heretofore made where the company shall, on or before January 31, 1915, file the bond herein prescribed.

(4) The tax is due only upon premiums charged under such open policies on or after December 1, 1914, and before December 31, 1915, notwithstanding that such open policies may have been outstanding prior to December 1, 1914.

The gross premiums charged by underwriters must be reported by them and the tax thereon paid as required by law, without deduction for commissions allowed agents from the premiums charged.

Attention is especially called to the fact that the foregoing regulations have reference only to *open* policies of insurance, and not to policies or other instruments under which insurance is effected, or renewed, where the premiums charged are, or, in the ordinary course of business, can be noted thereon.

BLANKET CONTRACTS FOR FIDELITY AND OTHER INSURANCE.

Where a contract for fidelity and other insurance covers a given period at a specified sum, irrespective of the number of bonds, etc., written under it, stamps covering an amount of the premium charged proportionate to the taxable period covered must be affixed to the contract and each bond or policy written during the taxable period will have written or stamped thereon the following: "Issued under contract dated ———, which contract has been duly stamped," or words to that effect.

SCHEDULE INSURANCE.

Where bonds or other policies of insurance are written covering a number of risks enumerated in schedules attached to the bonds or policies, changes being made from time to time in the schedules by the substitution or addition of employees or other risks, such bonds or policies will be stamped on the premiums charged at the time of issuance, and any additional charges increasing the total premium will be stamped on the premium receipt. Where it is impracticable, for bookkeeping reasons, to ascertain until the close of the period whether there has been an increase in the premium charged, stamps covering increased premium will be attached to the bond or policy when the fact is ascertained.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
BYRON R. NEWTON,
Acting Secretary of the Treasury.

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(T. D. 2107.)

Emergency revenue law—Commercial brokers, etc.

Special tax as commercial broker or commission merchant under the emergency revenue act.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 28, 1914.

To collectors of internal revenue, revenue agents, and others concerned.

This office is in receipt of numerous inquiries regarding sales of products on commission basis by local agents, sales representatives, and others.

With regard to such matter, you are advised that a person who negotiates purchases or sales on commission, exclusively for certain persons or firms with whom he is under contract, is regarded as an agent of such persons or firms and does not incur special tax liability as commercial broker.

However, if he is engaged in the business of negotiating on a commission basis purchases or sales of goods, wares, produce, or merchandise for any and all applicants then special tax liability as commercial broker is incurred.

The principle involved in the above applies with equal force to the doing of business as commission merchant.

W. H. OSBORN,
Commissioner of Internal Revenue.

(T. D. 2108.)

Emergency revenue law—Schedule B.

Modification of regulations contained in T. D. 2063, relative to tax payment and stamping bulk packages, etc.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 30, 1914.

Regulations contained in T. D. 2063, in regard to manufactures taxed under Schedule B of the act of Congress approved October 22, 1914, are amplified and modified as follows:

All petrolatum and vaseline and similar substances used in the arts and trades, such as the manufacture of lubricants, inks, transparent envelope windows, shoe polish, waterproofing, etc., may be removed from the factory or refinery without payment of tax or affixing the stamps to the containers. All finished or refined petrolatum and vaseline or similar substances removed from the factory and sold to consumers in jars, bottles, or cans, including white, blue label, perfumed, etc., or for sale at retail for toilet purposes, must be tax paid. The tax must be paid in all cases by the manufacturer or refiner, except as hereinafter provided.

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All manufactures of any character subject to the tax under Schedule B, such as petrolatum, bay rum, toilet waters, chewing gum, talcum powder, etc., removed from the factory in any quantity, in a finished condition—that is, bottled or otherwise packed for the consumer—or for sale at retail, must be tax paid by the manufacturer and have the necessary stamps affixed to the container. Manufactures which are shipped in bulk by the manufacturer in an unfinished condition—that is, those which require to be repacked, labeled, and otherwise put in salable condition by others, but which are otherwise in condition for ultimate consumption, and sold under their own or other names—may be removed from the factory or customhouse without payment of the tax or having the stamps affixed to the container. In case of manufactures which are used only for toilet purposes, the following label or caution notice must be affixed to the container:

These goods are removed in an unfinished condition and need to be drawn off into smaller containers, labeled, wrapped, and otherwise put in a salable condition at retail. Notice is hereby given to the person thus drawing same off, labeling, packing, and placing them in a salable condition at retail, that the tax must be paid by the person thus putting same in salable condition at retail, and the necessary stamps to be affixed to the bottles or other containers into which same are drawn.

The following label should be used on bulk containers of petrolatum, vaseline, and other products which have double uses:

These goods are removed in an unfinished condition and need to be drawn off into smaller bottles or containers, labeled and wrapped, and otherwise put in a salable condition. Notice is hereby given to the person thus drawing same off, labeling, packing, and placing them in a salable condition at retail that the tax must be paid on such portion as is sold for toilet purposes, and the necessary stamps be affixed to the bottles or other containers into which same are drawn. The portion sold for use in the arts and trades need not be tax paid and stamped.

These labels must be dated and signed.

Wholesale dealers, jobbers, and importers selling unfinished products must affix the appropriate previously described caution notice or label. In this case they need not pay the tax and affix the stamps. Wholesalers, jobbers, importers, or others who put goods in a salable condition for consumers, or for sale at retail, will be regarded as manufacturers thereof and be required to pay the tax and affix the necessary stamps. Retail dealers may sell from stamped containers for immediate delivery over the counter without stamping the smaller containers. Retail dealers who fill bottles or small containers from stamped packages for future delivery must stamp the bottles or containers thus filled. Retail dealers are required to tax pay and stamp all taxable goods which were in the hands of wholesale dealers, importers, and retail dealers on December 1, 1914, when such articles are sold at retail.

The purpose of this regulation is to avoid double taxation and to permit shipment of bulk packages by manufacturers, wholesalers, jobbers, importers, and others without tax payment and stamping

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until the goods are put in salable condition in suitable containers for sale at retail. It must be distinctly understood, however, that this is not authority for shipment of finished products packed ready for sale at retail by manufacturers and others without tax payment.

FORM OF DECLARATION.

The following form is prescribed for manufacturer's declaration at the end of each month of manufactures removed during the month:

UNITED STATES INTERNAL REVENUE.

Declaration of manufacturers for goods taxable under Schedule B of the act of Congress approved October 22, 1914.

——— DISTRICT OF ———,

———, 191–.

The undersigned ———, manufacturer of ———, at No. ——, city of ——, county of ———, collection district of ———, State of ———, in pursuance of the requirements of the act of Congress approved October 22, 1914, do— hereby expressly declare that during the month of ———, 191–, no article or commodity has been removed or carried or sent or caused or suffered or known to have been removed, carried, or sent from the premises of such manufacturer or maker other than such as have been duly taken account of and on which the stamp tax provided for in said act has been paid, as required by law and regulations.

(Signed) ——— ———.

(Manufacturer's name and seal if corporation.)

By ——— ———.

(Foreman, agent, or superintendent, as the case may be.)

Regulations 2063 are hereby accordingly modified and amended.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:

WM. P. MALBURN,
Acting Secretary of the Treasury.

(T. D. 2109.)

Income tax—Nonresident aliens.

Amendment of article 8 of regulations 33, providing for the collection of tax on income of nonresident aliens.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 28, 1914.

To collectors of internal revenue:

T. D. 2013 of August 12, 1914, amending article 8, income-tax regulations No. 33, is amended to make article 8 read as follows, the words in *italics* constituting the further amendments:

ART. 8. The income of nonresident aliens subject to the normal tax of 1 per cent shall consist of the total gains, profits, and income derived from all property owned

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and from every business, trade, or profession carried on within the United States (to be designated as gross income), less deductions (1 to 8, inclusive) specifically enumerated in paragraph B of the act (see art. 6), in so far as said deductions relate to said gains, profits, etc.

The specific exemption in paragraph C of the act can not be allowed as a deduction in computing the normal tax of nonresident aliens.

Nonresident aliens are subject to additional or surtax the same as prescribed in the case of citizens of the United States or persons residing in the United States.

The responsible heads, agents, or representatives of said nonresident aliens who are in charge of the property owned or business carried on shall make full and complete return of *the income therefrom on Form 1040 and shall pay any and all tax, normal and additional, assessed upon the said income of such nonresident aliens.*

The person, firm, company, copartnership, corporation, joint-stock company or association, and insurance company in the United States, citizen or resident alien, in whatever capacity acting, having the control, receipt, disposal, or payment of fixed or determinable annual or periodical gains, profits, and income, of whatever kind, to a nonresident alien, under any contract or otherwise, which payment shall represent income of a nonresident alien from the exercise of any *trade or profession* within the United States *shall deduct and withhold from such annual gains, profits, and income, regardless of amount, and pay to the officer of the United States Government authorized to receive the same, such tax as will be sufficient to pay the normal tax of 1 per cent imposed thereon by law, and shall make an annual return on Form 1042.*

Form 1008, revised, claiming the benefit of deductions and refund of excess tax withheld, as provided by paragraphs B and E of the Federal income-tax law may be filed by the nonresident alien with the withholding agent or collector of internal revenue for the district in which the return is made or is to be made.

W. H. OSBORN,
Commissioner of Internal Revenue.

Approved:
WM. P. MALBURN,
Acting Secretary of the Treasury.

(T. D. 2110.)

Emergency revenue law—Bonds.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 4, 1915.

To collectors of internal revenue and others concerned:

This office has received a number of inquiries indicating that a construction not intended by this office has occasionally been placed upon T. D. 2060, dealing with the subject of bonds, and especially bonds accompanying mortgages.

In order to make plain the meaning of said Treasury decision it may be stated that taxable bonds, under the revenue act of October 22,

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1914, are divided into two distinct classes, having neither in form, purpose, nor law any resemblance whatever to each other. They are—

First. Bonds issued as certificates or evidence of indebtedness, generally based upon mortgages or some other character of security founded upon real or personal property.

Second. Bonds of indemnity for loss, to secure the performance of the duties of any office or position, or for the doing of any other thing therein specified.

The first class is taxed under the law at 5 cents on each $100 of face value or fraction thereof when issued by any association, company, or corporation. If, however, they are issued simply by an individual, and based either upon his individual credit or property and obligating him to pay a certain sum or sums of money at a specific time or times, with or without coupons, simply marking and indicating interest due thereon and whether or not based upon a mortgage of either personal or real property, they fall within the taxation imposed upon promissory notes; that is to say, 2 cents when promising to pay a sum not exceeding $100, and 2 cents for each additional $100 or fractional part thereof.

The second class—bonds or obligations of the nature of indemnity for loss, security, or guaranteeing official obligations—are accompanied usually by sureties, either personal or corporate. When such bonds are executed only by persons without charge therefor in the nature of premium, they fall under the subdivision of class 2, which the law designates as "bonds of any description * * * not otherwise provided for in this schedule, 50 cents." Such personal indemnity bonds, therefore, without premium, are the only character of bonds within the revenue act subject to a 50-cent tax. Indemnity bonds issued by any person, association, or corporation transacting the business of indemnity insurance are taxable in all cases and for all purposes at the rate of one-half of 1 cent on each dollar or fractional part thereof upon the total amount of premium charged.

The first class of bonds are almost uniformly based upon mortgages of either personal property or real property, whereas the second class would rarely be issued in connection with a mortgage or other property used as security or collateral for the payment of a debt. The nature and purpose of the two bonds would fix their status for taxation, and not the extraneous facts as to whether they were issued with or without mortgages. Any inconsistent ruling heretofore made is modified in line with the foregoing.

W. H. Osborn,
Commissioner of Internal Revenue.

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(T. D. 2111.)

Emergency revenue law—Bonds.

Bonds given by officials of a State, township, county, or village for the faithful performance of duties not subject to stamp tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 28, 1914.

SIRS: This office is in receipt of your letter of the 23d instant, calling attention to T. D. 2072, and especially to the third question which was raised and answered therein, relative to bonds given by State, township, county, and village officials.

In reply, you are advised it is held by this office that bonds given by officials of a State, township, county, or village for the faithful performance of duties, and any bonds given to the same political subdivisions covering contracts for governmental purposes or the protection of the State, township, county, village, or municipality, in any respect, are held to be free from Federal taxation on the broad ground that the sovereign States and subdivisions thereof are constitutionally free from taxation by the Federal Government.

You will note that this ruling does not apply to bonds otherwise taxable given to the Federal Government for any purposes.

Respectfully,

W. H. OSBORN,
Commissioner of Internal Revenue.

Messrs. ——— ———.

(T. D. 2112.)

Emergency revenue law—Building and loan associations.

Transfers of stock of building and loan associations not subject to tax. Notes given by or to such associations taxable.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 31, 1914.

SIR: Replying to your letter of the 23d instant, inclosing a communication from the Summit Building & Loan Association under date of the 21st idem, you are informed that in the opinion of this office transfers of stock of a building and loan association which makes loans only to its members are not subject to tax under the act of October 22, 1914. Notes, however, given to or by such association are taxable the same as notes issued by any other person or organization not specially exempted.

Respectfully,

G. E. FLETCHER,
Acting Commissioner of Internal Revenue.

COLLECTOR, FIFTH DISTRICT, *Newark, N. J.*

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INDEX.

A.

	Dept. No.
Acceptance of certified checks for internal-revenue taxes	1963
Accounts and reports, assistant treasurer, etc., stamp tax	2080
Act of October 22, 1914; emergency revenue law	2033
Additional forms; annual net income; income tax	1928
Additional tax; fermented liquors	2026, 2031
Adhesive stamps, receipt for	2089
Adulterated butter, marking and branding	1970
Advance payment of tax withheld by agents, etc.; income tax	1965
Agents, real estate; emergency revenue law	2083
Alcohol, rectified, use of; manufactures for export	1968
Alcohol for scientific purposes	1969, 1971
Alcoholic medicinal preparations, revised list of; special tax	1994
Aliens, nonresident; income tax	2109
Annual inventories by cigar and tobacco manufacturers	2057
Annual net income:	
Additional forms; income tax	1928
Corporations; fiscal year; income tax	2001
Corporations, returns of	2029
Aqueous extract of opium	1982
Articles and occupations subject to tax, schedule of	2035
Assessed taxes; notice and demand, Form 17	1995
Assessments; demand and notice, Form 17	2003
Assignment to duty of income-tax appointees	1932
Assistant treasurer, etc.; accounts and reports; stamp tax	2080

B.

Bankers:	
Special lists; emergency revenue law	2045
Tax on undivided profits	2064
Berths or seats in palace, parlor, or sleeping cars	2041
Bills of lading; emergency revenue law	2059, 2065, 2074, 2092
Blank forms of certificates, etc.; income tax	1939
Bonded spirits, equalizing losses of	2008
Bonds and certificates in legal proceedings	2091
Bonds and other instruments; insurance companies	2072
Bonds and policies of insurance; emergency revenue law	2062
Bonds; emergency revenue law	2110, 2111
Export	2100
Foreign corporations; income tax	1992
Bottles and other containers of wines, etc., stamping	2078
Brandy:	
Distillers of; certain exemptions	1984
Fortification, use of tank cars to transfer	2019
Broker or commission merchant; emergency revenue law	2107
Brokers' notes or memoranda; emergency revenue law	2088, 2105
Bromine absorption number; denatured alcohol	1978
Building and loan associations:	
Corporation tax (Herold *v.* Park View Building & Loan Association)	1941
Emergency revenue law	2044, 2112
Bulk packages, etc.; T. D. 2063 modified	2108

C.

Cancellation of stamps; emergency revenue law	2098
Capital assets, gain or loss from sale of; income tax	2077
Case and strip stamps for spirits bottled in bond	2034

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	Dept. No.
Certificates:	
Exemption; firms, organizations, etc.; income tax	1998, 2049
Schedule A, emergency revenue law	2087
Deposit	2032, 2054
Issued by State officers	2071
Certificates of ownership:	
Bonds; nonresident alien	1988
Executed by foreign banks, etc.; income tax	1977
Income tax; changes of regulations	1974
Supplemental regulations; income tax	1976
Use of old forms of	2020
Certified checks:	
Acceptance of, for internal-revenue taxes	1963
Commercial exchange	1990
Changes of regulations; income tax; certificates of ownership	1974
Chewing gum:	
Broken packages	2076
Perfumery, cosmetics, etc., Schedule B	2063
Stamp tax on; emergency revenue law	2052
Cigar and tobacco manufacturers, annual inventories by	2057
Cigar manufacturer's book, Form 73 revised	1930
Cigars, tobacco, playing cards, etc., by registered mail	1931
Circular letters:	
Adhesive stamps, receipt for	2089
Adulterated butter, marking and branding	1970
Alcohol for scientific purposes; T. D. 1757 amended	1969
Assessed taxes; notice and demand, Form 17	1995
Assignment to duty of income-tax appointees	1932
Case and strip stamps for spirits bottled in bond	2034
Certificates of deposit Forms 49, 51B, and 79, and Record 9	2032
Certificates of ownership, use of old forms of	2020
Chewing gum in broken packages	2076
Cigar manufacturer's book, Form 73 revised	1930
Diary reports rendered trimonthly on Form 629	1952
Distillers of brandy; certain exemptions	1984
Domestic and imported wines, liqueurs, etc.; tax stamps	2027
Emergency revenue law effective Dec. 1, 1914	2038
Equalizing losses of bonded spirits	2008
Fermented liquors; additional tax	2026
Gauging instruments; evidence of breakage, etc	1980
Leaf tobacco dealers to report in Book 59 factory numbers, etc	2025
Mash fit for distillation; artificial wines	1949
Medicinal preparations, list of, amended	2010
Oleomargarine; regulations No. 9 amended	2004
Oleomargarine returned, destruction of	2021
Raisin wine; application of T. D. 1949	2002
Records 29 and 32 abolished	1951
Report on Form 22; collection of additional taxes	2031
Substitution; modification of T. D. 1872	2007
Tank cars, use of, to transfer brandy for fortification	2019
Tobacco, cigars, playing cards, etc., by registered mail	1931
Wholesale liquor dealers; special tax	2014
Wines, tax on, act of October 22, 1914	2037
Citizens living abroad, extension of time for filing returns; income tax	1953
Claims (Fort Pitt Gas Co. *v.* United States)	1979
Coca leaves or opium	2102
Collectors not to retain copies of income-tax returns; amending article 192, Regulations 33	2024
Collectors to answer inquiries relative to income tax	1956
Commercial exchange; certified checks	1990
Commission merchants; emergency revenue law	2084, 2107
Commissions on renewal premiums on insurance, taxability of	2011
Consignment of newspapers, act of October 22, 1914	2036
Containers of wines, etc., stamps on; emergency revenue law	2053
Cooperative dairies, etc., not exempted; income tax	1996
Corporation tax; building and loan associations (Herold *v.* Park View Building & Loan Association)	1941

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	Dept. No.
Corporations, annual net income; fiscal year; income tax	2001
Corporations not to deduct from gross or net income for year 1913; income tax	1937
Corporations, returns of annual net income	2001, 2029
Cosmetics, perfumery, chewing gum, etc.; Schedule B	2063
Coupons or interest notes; emergency revenue law	2101
Courts, decision of:	
Claims (Fort Pitt Gas Co. *v.* United States)	1979
Corporation tax; building and loan associations (Herold *v.* Park View Building & Loan Association)	1941
Distilled spirits; distillery warehouses (Taney, trustee, *v.* Penn National Bank)	1959
Distilled spirits; warehousing bond (United States Fidelity & Guaranty Co., Baltimore, Md., *v.* United States)	2103
Income tax (Dodge *v.* Osborn)	1983
Searches and seizures (Fremont Weeks *v.* United States)	1964
Special excise tax on corporations (Eliot National Bank *v.* Gill)	1936
Special excise tax on corporations; leased railroads (Dayton & Western Traction Co. *v.* Gilligan et al.)	2000
Special excise tax on corporations; leased railroad (New York Central Railroad et al. *v.* Gill)	1999
Special excise tax on corporations (National Bank of Commerce *v.* Allen)	1991
Stamp tax on marine insurance policies (Thames & Mersey Marine Insurance Co. *v.* United States)	2009
D.	
Dairies:	
Cooperative, etc., not exempted; income tax	1996
Monthly, special employees	1958
Deduction for loss; income tax	1993, 2005
Deduction of interest; income tax	1960, 1993
Deeds and mortgages; emergency revenue law	2042, 2060
Delayed payments, 5 per cent penalty and interest on	2028
Demand and notice, Form 17; assessments	2003
Denatured alcohol:	
Bromine absorption number	1978
Modification of special formula No. 4	1975
Pyroxylin plastics	1954
Smoking and chewing tobacco	1981
Diary reports rendered trimonthly on Form 629	1952
Digest of rulings:	
Emergency revenue law	2051
Income tax	2090
War-revenue act of June 13, 1898	2046
Discount on purchases of documentary stamps, etc	2055, 2070
Display containers, stamping; emergency revenue law	2082
Distilled spirits:	
Distillery warehouses (Taney, trustee, *v.* Penn National Bank)	1959
Warehousing bond (United States Fidelity & Guaranty Co., Baltimore, Md., *v.* United States)	2103
Withdrawal of, for export	2018
Distillers of brandy; certain exemptions	1984
Dividends or net earnings; exclusion of income from; income tax	1945
Dividends:	
Tax on; exemption certificate	2030
Taxable status; income tax	2048
Documentary stamps and taxes; Schedule A	2067
Documentary stamps, discount on purchases of	2055, 2070
Domestic and imported wines, liqueurs, etc.; tax stamps	2027
E.	
Emergency revenue law:	
Accounts and reports, assistant treasurer, etc.; stamps	2080
Act of October 22, 1914	2033
Adhesive stamps, receipt for	2089

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Emergency revenue law—Continued.	Dept. No.
Bankers' lists, special	2045
Bills of lading	2059, 2065, 2092
Bonds	2110, 2111
Bonds and certificates in legal proceedings	2091
Bonds and policies of insurance	2062
Broker or commission merchant	2107
Brokers' notes or memoranda	2088, 2105
Building and loan associations	2044, 2112
Cancellation of stamps	2098
Certificates issued by State officers	2071
Certificates of deposit not taxable	2054
Certificates; Schedule A	2087
Chewing gum, stamp tax on	2052
Commission merchants	2084
Containers of wines, etc., stamps on	2042, 2053
Coupons or interest notes	2101
Deeds and mortgages	2042, 2060
Digest of rulings; income tax	2046, 2051, 2090
Digest of rulings under act of Oct. 22, 1914	2051
Digest of rulings under war-revenue act of June 13, 1898	2046
Discount on purchases of documentary stamps, etc	2055, 2070
Display containers, stamping	2082
Documentary stamps and taxes; Schedule A	2067
Effective December 1, 1914	2038
Export bonds	2100
Fermented liquors, additional tax on	2047
Fire-insurance policies	2043
Foreign bills of lading	2074
Hair oils, pomades, etc	2096
Income-tax certificates	2049
Insurance companies; bonds and other instruments	2072
Insurance policies, tax on	2068
Judgment notes	2081
Liqueurs, cordials, etc., classification of	2050
Marine insurance policies	2106
Marking tax stamps	2069
Modifying T. D. 2080; forms and records	2093
Moving-picture theaters	2040
Newspapers, bundles of	2075
Packer's tar soap	2099
Perfumery, cosmetics, chewing gum, etc.; Schedule B	2063
Policies of fire insurance	2043
Policy loan agreements	2097
Powers of attorney for transfer of stock, etc	2056, 2085
Real estate agents; real estate, etc	2083
Seats or berths in palace, parlor, or sleeping cars	2041
Soaps	2094
Special-tax returns, act of October 22, 1914	2039
Stamping bottles and other containers of wines, etc	2078
T. D. 2063 modified; bulk packages, etc	2108
Talcum powders, etc	2066
Telegraph and telephone messages	2058
Tobacco dealers and manufacturers	2061
Tooth and mouth washes	2095, 2104
Transfer of stock certificates, etc	2073
Undivided profits; tax on bankers	2064
Witch-hazel for medicinal use	2086
Equalizing losses of bonded spirits	2008
Exclusion of income from dividends or net earnings; income tax	1945, 1947
Executive order; inspection of income-tax returns	2016
Exemption certificate; tax on dividends	2030
Exemption certificates; firms, organizations, etc.; income tax	1998
Export bonds; emergency revenue law	2100
Extending exemption certificate 1063 to nonresident aliens	2012
Extension of time for filing returns; income tax	1927, 1938, 1953, 1955, 1985

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F.

	Dept. No.
Fermented liquors; additional tax	2026, 2047
Fiduciaries:	
Extending T. D. 1945 to cover returns made by; income tax	1947
Forms 1015 and 1019, revised; income tax	1987
Income tax	1961
Returns to be made on Form 1041; income tax	1943
Fire insurance policies; emergency revenue law	2043
Fiscal agents; foreign corporations; income tax	2006
Fiscal year; annual net income of corporations; income tax	2001
Five per cent penalty and interest on delayed payments	2028
Foreign bills of lading; emergency revenue law	2074
Foreign corporations:	
Bonds of; income tax	1992
Fiscal agents; income tax	2006
Form of certificate to be attached to interest coupons; income tax	1929
Form 17, demand and notice; assessments	2003
Form 22, report on; collection of additional taxes	2031
Form 73 revised; cigar manufacturer's book	1930
Form 1040, return on, when exemption is not claimed at the source; income tax	1942
Forms 1015 and 1019, revised; fiduciaries; income tax	1987
Forms 1058 and 1059; substitute certificates, execution of	1986

G.

Gain or loss from sale of capital assets; income tax	2077
Gauging instruments; evidence of breakage, etc	1980
Gross or net income for year of 1913, corporations not to deduct from; income tax	1937

H.

Hair oils, pomades, etc.; emergency revenue law	2096

I.

Income tax:	
Additional forms; annual net income	1928
Advance payment of tax withheld by agents, etc	1965
Amending Article 58, regulations 33; indorsement or stamp on foreign coupons, etc	2023
Amending Article 192, regulations 33; collectors should not retain copies of returns	2024
Amendment of T. D. 1942	1948
Appointees, assignment to duty of	1932
Blank forms of certificates, etc	1939
Bonds of foreign corporations	1992
Certificate of ownership of bonds; nonresident alien	1988
Certificates; emergency revenue law	2049
Certified checks and other forms of commercial exchange	1990
Changes of regulations; certificates of ownership	1974
Cooperative dairies, etc., not exempted	1996
Corporations, annual net income; fiscal year	2001
Corporations not to deduct from gross or net income for year 1913	1937
Corporations' returns of annual net income	2029
Deduction for loss	2005
Deduction of interest actually accrued	1960
Dividends, taxable status	2048
Dodge *v.* Osborn	1983
Exclusion of income from dividends or net earnings	1945
Exemption certificate; tax on dividends	2030
Exemption certificates, firms, organizations, etc	1998
Extending exemption certificate 1063 to nonresident aliens	2012
Extending T. D. 1945 to cover returns by fiduciaries	1947
Extension of time for filing monthly list returns	1927
Extension of time for filing returns by citizens living abroad	1953

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	Dept. No.
Income tax—Continued.	
Extension of time for filling in on certificates numbers of bonds, etc.	1955
Extension of time for use of Forms 1001, 1003, and 1004	1938
Fiduciaries	1961
Fiduciaries and returns to be made by them on Form 1041	1943
Fiduciaries; Forms 1015 and 1019, revised	1987
Five per cent penalty and interest on delayed payments	2028
Foreign corporations, fiscal agents	2006
Form 1040, return on, when exemption is not claimed at the source	1942
Form of certificate to be attached to interest coupons	1929
Gain or loss from sale of capital assets	2077
Inquiries relative to, answered by collectors	1956
Inspection of returns; Executive order	2016
Interest paid on indebtedness; deduction	1993
Liability; quarters, heat and light, and mileage, etc	2079
Losses deductible from gross income	1989
Monthly list returns not to be made under oath	1997
Mutual telephone companies, mutual insurance companies, etc	1933
Net income from Mar. 1 to Dec. 31, 1913	1934
Nonresident aliens	2013, 2109
Nontaxibility of interest from bonds and dividends; nonresident aliens	2017
Offers in compromise	2015
Organizations, etc.; withholding agents	1967
Ownership certificate executed by foreign banks, etc	1977
Partnerships	1957
Regulation 33 (Supplement to Treasury Decisions)	1944
Returns to be treated inviolably confidential	1962
Revision of Form 1044; monthly list return	1973
Special assessment districts; political subdivisions of a State	1946
Substitute certificates 1058 and 1059, execution of	1986
Supplemental regulations; certificates of ownership	1976
Synopsis of rulings	2090
Taxability of commissions on renewal premiums on insurance	2011
Time for filing returns; penalties	1950
Waiver of regulations; extension to October 31, 1914	1985
Waiver of regulations; filling in on certificates, etc	2022
Indebtedness, interest paid on; deduction; income tax	1993
Indorsement or stamp on foreign coupons, etc.; amending article 58, regulations 33	2023
Inquiries relative to income tax answered by collectors	1956
Inspection of returns; Executive order; income tax	1016
Insurance, bonds and policies of; emergency revenue law	2062
Insurance companies; bonds and other instruments	2072
Insurance policies:	
Marine; emergency revenue law	2106
Tax on; emergency revenue law	2068
Interest actually accrued, deduction of; income tax	1960
Interest coupons, form of certificate to be attached to; income tax	1929
Interest notes or coupons; emergency revenue law	2101
Interest paid on indebtedness; deduction; income tax	1993
Internal revenue law, emergency, effective December 1, 1914	2038
Internal-revenue act of October 22, 1914	2033
Inventories, annual, by cigar and tobacco manufacturers	2057
Inviolably confidential, returns to be treated; income tax	1962

J.

Judgment notes; emergency revenue law	2081

L.

Leaf tobacco dealers to report in Book 59 factory numbers, etc	2025
Leased railroad; special excise tax on corporations:	
Dayton & Western Traction Co. *v.* Gilligan et al	2000
New York Central Railroad et al. *v.* Gill	1999
Liability tax; quarters, heat and light, and mileage, etc	2079
Liqueurs, cordials, etc., classification of; emergency revenue law	2050

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	Dept. No.
Liquors, fermented; additional tax; emergency revenue law	2047
Losses deductible from gross income; income tax	1989
Losses of bonded spirits, equalizing	2008

M.

Manufactures for export; use of rectified alcohol	1968
Marine insurance policies:	
Emergency revenue law	2106
Stamp tax on (Thames & Mersey Marine Insurance Co. *v.* United States)	2009
Marking and branding adulterated butter	1970
Marking tax stamps; emergency revenue law	2069
Mash fit for distillation; artificial wines	1949
Medicinal preparations, alcoholic, revised list; special tax	1994, 2010
Memoranda or brokers' notes	2088
Modification:	
Special Formula No. 4; denatured alcohol	1975
T. D. 1731; alcohol for scientific purposes	1971
T. D. 1872; substitution	2007
T. D. 2063; bulk packages, etc	2108
T. D. 2080; forms and records	2093
Monthly list returns:	
Extension of time for filing	1927
Income tax; revision of Form 1044	1973
Monthly list returns not to be made under oath; income tax	1997
Mortgages and deeds; emergency revenue law	2060
Moving-picture theaters; emergency revenue law	2040
Mutual telephone and mutual insurance companies, etc.; income tax	1933

N.

Net income from March 1 to December 31, 1913; income tax	1934
Newspapers:	
Bundles of; emergency revenue law	2075
Consignment of, act of October 22, 1914	2036
Nonresident aliens:	
Certificate of ownership of bonds	1988
Extending exemption certificate 1063 to	2012
Income tax	2013, 2109
Nontaxibility of interest from bonds and dividends	2017
Notice and demand, Form 17; assessed taxes	1995

O.

Occupations and articles subject to tax, schedule of	2035
Offers in compromise; income tax	2015
Oleomargarine:	
Regulations No. 9 amended	2004
Returned, destruction of	2021
Opium:	
Aqueous extract of	1982
Smoking, manufacture of; act of January 17, 1914	1940
Opium or coca leaves	2102
Organizations, etc.; withholding agents, income tax	1967
Ownership certificate executed by foreign banks, etc.; income tax	1977

P.

Packer's tar soap; emergency revenue law	2099
Partnerships; income tax	1957
Penalties; time for filing returns; income tax	1950
Perfumery, cosmetics, chewing gum, etc.; Schedule B	2063
Policies:	
Insurance; emergency revenue law	2043, 2062
Loan agreements; emergency revenue law	2097
Open; marine insurance; emergency revenue law	2106

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	Dept. No.
Political subdivisions of a State; special assessment districts; income tax	1946
Pomace and raisin wine	1966, 1972
Pomades, hair oils, etc.; emergency revenue law	2096
Powers of attorney for transfer of stock, etc	2056, 2085
Profits, undivided; tax on bankers	2064
Pyroxylin plastics; denatured alcohol	1954

Q.

Quarters, heat and light, and mileage, etc.; tax liability	2079

R.

Raisin and pomace wines	1966, 1972
Raisin wine; application of T. D. 1949	2002
Real estate agents; emergency revenue law	2083
Receipt for adhesive stamps	2089
Records 29 and 32 abolished	1951
Rectified alcohol, use of; manufactures for export	1968
Rectifier; spurious or imitation liquors	1935
Registered mail; tobacco, cigars, playing cards, etc	1931
Regulations No. 9 amended; oleomargarine	2004
Regulations 33 (Supplement to Treasury Decisions); income tax	1944
Report on Form 22; collection of additional taxes	2031
Returns to be treated inviolably confidential; income tax	1962
Revision of Form 1044; monthly list return; income tax	1973
Rulings:	
Digest of, under war-revenue act of June 13, 1898	2046
Emergency revenue law	2051
Income tax	2090

S.

Schedules of articles and occupations subject to tax	2035
Searches and seizures (Fremont Weeks *v.* United States)	1964
Sleeping cars, seats, or berths in palace, parlor, or	2041
Smoking and chewing tobacco; denatured alcohol	1981
Soaps; emergency revenue law	2094
Special assessment districts; political subdivisions of a State; income tax	1946
Special bankers' lists; emergency revenue law	2045
Special employees' monthly diaries	1958
Special excise tax on corporations:	
Eliot National Bank *v.* Gill	1936
Leased railroad (New York Central Railroad et al. *v.* Gill)	1999
Leased railroads (Dayton & Western Traction Co. *v.* Gilligan et al.)	2000
National Bank of Commerce *v.* Allen	1991
Special tax:	
Alcoholic medicinal preparations, revised list of	1994
Marine insurance policies (Thames & Mersey Marine Insurance Co. *v.* United States)	2009
Returns, act of October 22, 1914	2039
Rectifier; spurious or imitation liquors	1935
Wholesale liquor dealers	2014
Stamping bottles and other containers of wines, etc	2078
Stamping display containers; emergency revenue law	2082
Stamps:	
Case and strip, for spirits bottled in bond	2034
Documentary; Schedule A	2067
Wine, documentary or proprietary; accounts and reports	2080
State officers, certificates issued by	2071
Spurious or imitation liquors; rectifier	1935
Stock certificates, etc., transfer of; Schedule A	2073
Substitute certificates 1058 and 1059, execution of	1986
Substitution; modification of T. D. 1872	2007
Supplemental regulations; certificates of ownership; income tax	1976
Synopsis of rulings; income tax	2090

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T.

	Dept. No.
Talcum powders, etc.; emergency revenue law	2066
Tank cars, use of, to transfer brandy for fortification	2019
Tax stamps, marking; emergency revenue law	2069
Tax withheld by agents, etc., advance payment of; income tax	1965
Taxability of commissions on renewal premiums on insurance	2011
Telegraph and telephone messages	2058
Telephone, mutual, and mutual insurance companies, etc.; income tax	1933
Theaters, moving-picture; emergency revenue law	2040
Time for filing returns; penalties; income tax	1950
Tobacco:	
Leaf dealers to report in Book 59 factory numbers, etc	2025
Smoking and chewing; denatured alcohol	1981
Dealers and manufacturers; emergency revenue law	2061
Cigars, playing cards, etc., by registered mail	1931
Tooth and mouth washes; emergency revenue law	2095, 2104
Transfer of stock certificates, etc.; Schedule A	2073
Transfer stock, power of attorney to	2056

U.

Undivided profits; tax on bankers	2064

W.

Waiver of regulations:	
Extension to October 31, 1914; income tax	1985
Filling in on certificates, etc	2022
Wholesale liquor dealers; special tax	2014
Wines:	
Artificial; mash fit for distillation	1949
Containers of, stamps on; emergency revenue law	2053
Raisin and pomace	1966, 1972
Tax on, under act of October 22, 1914	2037
Liqueurs, etc., domestic and imported; tax stamps	2027
Witch-hazel for medicinal use; emergency revenue law	2086
Withdrawal of distilled spirits for export	2018
Withholding agents; organizations, etc.; income tax	1967

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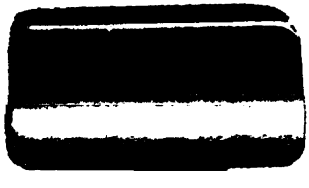

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